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Ontario

# ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 139

DATE: Thursday, September 21st, 1989

BEFORE: M.I. JEFFERY, Q.C., Chairman  
E. MARTEL, Member  
A. KOVEN, Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the  
Honourable Jim Bradley, Minister of the  
Environment, requiring the Environmental  
Assessment Board to hold a hearing with  
respect to a Class Environmental  
Assessment (No. NR-AA-30) of an  
undertaking by the Ministry of Natural  
Resources for the activity of timber  
management on Crown Lands in Ontario.

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Hearing held at the Ramada Prince Arthur  
Hotel, 17 North Cumberland St., Thunder  
Bay, Ontario, on Thursday, September 21st,  
1989, commencing at 8:30 a.m.

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VOLUME 139

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member





A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH )	RESOURCES
MS. K. MURPHY )	
MS. Y. HERSCHER )	
MR. B. CAMPBELL )	MINISTRY OF ENVIRONMENT
MS. J. SEABORN )	
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MR. R. COSMAN )	ASSOCIATION and ONTARIO
MS. E. CRONK )	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY )	ASSOCIATION
MR. H. TURKSTRA	ENVIRONMENTAL ASSESSMENT BOARD
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MR. R. BARNES )	ASSOCIATION
MR. R. EDWARDS )	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER)	OUTFITTERS ASSOCIATION





APPEARANCES: (Cont'd)

MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD )	
MR. J.W. ERICKSON, Q.C.)	RED LAKE-EAR FALLS JOINT
MR. B. BABCOCK )	MUNICIPAL COMMITTEE
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MR. S.M. MAKUCH )	
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MR. G.J. KINLIN	DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC	MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES	ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI	BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY





(iii)

APPEARANCES: (Cont'd)

MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON
MR. C. BRUNETTA	NORTHWESTERN ONTARIO TOURISM ASSOCIATION





I N D E X   O F   P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>JOHN McNICOL,</u>	
<u>FRANK D. KENNEDY,</u>	
<u>J. JOSEPH CHURCHER,</u>	
<u>RICHARD WILLIAM GROVES,</u>	
<u>HARTLEY MULTAMAKI,</u>	
<u>ALBERT BISSCHOP,</u>	
<u>ROGER W. DAVISON,</u>	
<u>ROBERT THOMAS FLEET,</u>	23577
Continued Direct Examination by Mr. Freidin	23577



I N D E X   O F   E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
851	Document entitled: Information Centre Documentation, Book 5, Red Lake TMP.	23578
852	Copies of two comment sheets from the Red Lake Crown information centre.	23579
853	Hard copies of overheads re: Document 3, Plan Review and Approval (Pages A-F).	23595
854	Hard copy of overheads re: Document 4, Amendments, Renewal and Contingency Plans (Pages A-I).	23748
855	Hard copy of overheads re: hypothetical situations - same activity, different situation, different category of amendment.	23784





1 ---Upon commencing at 8:35 a.m.

2 THE CHAIRMAN: Thank you. Be seated.

3 Mr. Freidin, we are ready.

4 MR. FREIDIN: I'm almost ready.

5 JOHN McNICOL,  
6 FRANK D. KENNEDY,  
7 J. JOSEPH CHURCHER,  
8 RICHARD WILLIAM GROVES,  
9 HARTLEY MULTAMAKI,  
ALBERT BISSCHOP,  
ROGER W. DAVISON,  
ROBERT THOMAS FLEET, Resumed

10 CONTINUED DIRECT EXAMINATION BY MR. FREIDIN:

11 Q. Okay, we are back to you, Mr.  
12 Multamaki. I would like to ask you a few questions  
13 about information centres. Did you hold an information  
14 centre in relation to the timber management plan on the  
15 Red Lake Crown?

16 MR. MULTAMAKI: A. Yes, I did.

17 Q. And could you describe to the Board  
18 whether there was advanced notice -- or could you  
19 advise the Board whether there was advanced notice of  
20 the information centre?

21 A. Yes, there was advanced notice of the  
22 information centre. This consisted of a generic letter  
23 which was a mail-out to people on the Red Lake mailing  
24 list, Red Lake Crown mailing list. Incidentally, there  
25 were 228 people on this list at that time.

1           The generic letter, or mail-out as we  
2       call it, contained a copy of the planning schedule and  
3       it also contained a copy of the newspaper advertisement  
4       that was placed in the District News and that was the  
5       second part of the notice, was a media ad advertising  
6       the information centre and that was put into the Red  
7       Lake District News which is a weekly newspaper that  
8       circulates throughout the Red Lake/Ear Falls area. We  
9       do have copies of this.

10           Q. I'm not too sure whether we have  
11       that. We have some documentation from the information  
12       centre which includes the summary of public  
13       consultation. Is the documentation that you refer to  
14       included in that group of documents?

15           A. Yes, it is.

16           Q. All right.

17           MR. FREIDIN: Well, perhaps then we could  
18       file at this time, Mr. Chairman, a document entitled:  
19       Information Centre Documentation, Book 5, Red Lake TMP.

20           THE CHAIRMAN: Exhibit 851.

21           MR. FREIDIN: (handed)

22           THE CHAIRMAN: Thank you.

23       ---EXHIBIT NO. 851: Document entitled: Information  
24                           Centre Documentation, Book 5, Red  
                          Lake TMP.

25           MR. FREIDIN: The exhibit number, Mr.



1 Chairman?

2 THE CHAIRMAN: 851.

3 MR. FREIDIN: Thank you.

4 I would also like to file as an exhibit  
5 at this time copies of two comment sheets from the Red  
6 Lake Crown information centre.

7 Where do these come from, which book, Mr.  
8 Multamaki?

9 MR. MULTAMAKI: Those are pages 160, 161,  
10 and it looks like 102 and 103 of Book 5 of the Red Lake  
11 TMP.

12 THE CHAIRMAN: Are you going to file that  
13 as one document?

14 MR. FREIDIN: Yes.

15 THE CHAIRMAN: Exhibit 852.

16 MR. FREIDIN: (handed)

17 THE CHAIRMAN: Thank you.

18 MR. MULTAMAKI: I apologize, that should  
19 be 162 and 163, those in fact are in order. So it  
20 should be 160, 161, 162 and 163 of Book 5.

21 ---EXHIBIT NO. 852: Copies of two comment sheets from  
22 the Red Lake Crown information  
centre.

23 MR. FREIDIN: Q. Perhaps before you  
24 refer to the mail-out that you were referring to, if  
25 you could just describe what Exhibit 851 is?

1 MR. MULTAMAKI: A. 851 simply contains  
2 copies of documentation with respect to the information  
3 centre; for instance, the first three pages are the  
4 mail-out that I've just described, the middle -- or  
5 pages 132 to 135 are minutes from the planning team  
6 just prior -- planning team meeting just prior to the  
7 information centre. That was planning team meeting of  
8 November 3rd, and then page 137 is again planning team  
9 minutes for November 25th, which in fact was three days  
10 prior to the information centre; sort of a last  
11 get-together. And the final two pages are pages (i)  
12 and (ii) from the front of Book 5 which is just a  
13 summary of the public consultation process that took  
14 place.

15 Q. Okay. So could you then -- can you  
16 give the first three pages of the mail-out that you  
17 referred to?

18 A. Yes. The first three pages, 56, 57  
19 and 58 is a copy of the generic letter that was sent to  
20 the 228 people on the information list -- or on the  
21 mailing list and the second page, 57, was the copy of a  
22 public notice which was placed in the newspaper and in  
23 fact attached to this generic mail-out in case people  
24 had missed it in the paper, and then the third page was  
25 the plan production schedule showing where the

1 information was and so on.

2 As well, you will notice that at the  
3 bottom of that production schedule there is -- there  
4 are asterisks down the side and at the very bottom  
5 there is a comment that -- highlighting that those are  
6 the points where public review and public participation  
7 takes place in the planning process or the formal  
8 opportunities for public review.

9 Q. Could you describe the information  
10 centre itself, Mr. Multamaki?

11 A. Yes. At the information centre, if  
12 an individual walked in off the street the first thing  
13 they encountered was a receptionist at the door. This  
14 individual in fact was the timber clerk and  
15 knowledgeable about timber operations.

16 She in fact was sitting at a desk as you  
17 came in the door, she had a sign-in sheet where she got  
18 people to sign their names so that we would know who  
19 was in attendance and how many and so on. She also had  
20 a package of comment sheets which were handed out as  
21 part of this exhibit, Exhibit 851. These --

22 Q. Would those be handed out to everyone  
23 that came in?

24 A. Yes, everybody was asked if -- first  
25 of all, to take a comment sheet as they came in the



1 door and if people had comments to make or wanted to  
2 discuss something or put something down in writing they  
3 could ask any member of the Ministry that was there or  
4 this receptionist. She was I guess sort of a focal  
5 point for the public to come if they were struggling  
6 with something or they needed comment sheets or pens or  
7 pencils or something of that nature.

8 As you moved past the reception desk  
9 there was a display board or a panel board system, such  
10 as you see behind this panel up here, and it was in a  
11 U-shaped format around the room and on the first board  
12 that you came in there was a written display or text  
13 that basically gave an introduction and a brief  
14 explanation of what the information centre was all  
15 about.

16 It really was three panels. It contained  
17 a background information sheet, just background  
18 information on the Red Lake Crown Management Unit, it  
19 gave a description of the information that was being  
20 presented and it had a brief commentary or text  
21 entitled: Why We're Here, and it basically explained  
22 to the people why they are attending that information  
23 centre and what was expected.

24 The first map encountered was the 20-year  
25 preliminary area of concern map at a scale of

1 1:250,000. That in fact showed the entire Red Lake  
2 Crown Management Unit with the primary road corridor  
3 options and the fisheries and tourism preliminary areas  
4 of concern.

5 The second set of maps were Part A and  
6 Part B, eligibility maps at a scale of 1:50,000. Those  
7 were the maps that we saw previously that were coloured  
8 for the areas where potential -- or operations  
9 potentially could take place.

10 The second -- or the next set of maps  
11 encountered were the allocation maps at a scale of  
12 1:50,000. Those were the key maps that I previously  
13 described that showed where the area selected for  
14 harvest, renewal and maintenance or tending were and,  
15 as well, in conjunction with these there was a table set  
16 up in the form of a drafting table that had the base  
17 maps, the 1:15,840 scale or large scale base maps.  
18 There was I think 22 of them on this table that could  
19 be flipped through should somebody have a specific  
20 question or concern about an area that they had  
21 encountered.

22 In addition to this, scattered throughout  
23 the display there were photos and accompanying text, 2,  
24 3, 4-line text describing various operations, harvest,  
25 silviculture. There was, for instance, pictures of --

1     you know, and there were I guess 18 x 20 photos with an  
2     accompanying legend underneath or a description  
3     underneath describing operations like harvest, like  
4     tree planting, there was one of strip cuts or natural  
5     regeneration systems, there were some for roads and so  
6     on.

7                     And with each of the maps there were  
8     pictures accompanying to give the public a brief  
9     impression of some of the operations that may be taking  
10    place on these areas that were described -- or shown on  
11    the map. Also there were some of prescribed burns with  
12    a description of that.

13                    There was also -- the roads maps were  
14    presented at a scale of 1:50,000. I'm not sure that we  
15    have presented those yet. Those were key maps. In  
16    addition to this, there was a slide presentation that  
17    was running in one corner and it had a moose habitat  
18    tape, slide tape presentation in it that people  
19    watched. It was 15 or 20 minutes in duration.

20                    In addition to this, the draft --  
21    portions of the draft plan were available at that time.  
22    There was the past plan analysis, the report of past  
23    forest operations, the objectives and strategies, the  
24    stand listings and so on. In fact, most of the front  
25    end of the plan was there in draft format.



1                   Of note there were 68 people that  
2                   attended the information centre and we had three  
3                   comment sheets returned as a result of that.

4                   Q.   Now, you indicated that portions of  
5                   the plan or documentation was available. Was any  
6                   documentation in relation to areas of concern or road  
7                   planning available?

8                   A.   Yes, there was. In fact there were  
9                   maps and so on shown. As well, at this information  
10                  centre the 87/88 annual work schedule was presented and  
11                  that was because of the Fire No. 7 and the fact that we  
12                  had to go with an annual work schedule for the first  
13                  year of the period.

14                  The roads that you are speaking of, they  
15                  were shown on the -- for instance, on the 1:15,840  
16                  scale or 1:15,840 and 1:50,000 scale allocation maps as  
17                  well.

18                  Q.   What about your area of concern  
19                  description sheets?

20                  A.   Yes, I should mention that those  
21                  sheets in were available in a binder format as well at  
22                  that time.

23                  Q.   And what sort of -- would there have  
24                  been a proposed prescription at that time?

25                  A.   Yes. We proposed a prescription,

1       that was if you remember down -- the first seven parts  
2       were filled out prior to the information centre, Part 8  
3       of those prescription sheets being the public response  
4       and Part 9 -- or public comments and concerns and then  
5       Part 9 being the proposed or the final prescription and  
6       justification. So we had those prescription sheets for  
7       each AOC completed to Part 7.

8               The easiest way to show that is on the --  
9       within Exhibit 851, the timber management planning  
10      meetings, meeting of November 3rd, 1986, that should be  
11      the -- and you go to the third page in that where the  
12      top says No. 4, Areas of Concern. You will see that  
13      the second last bullet point under part -- Point 4,  
14      Areas of Concern, it says:

15               "Package must be in place before the  
16               information centre."

17               That in fact was the meeting almost a  
18      month before the information centre where we were  
19      assembling and finishing up the area of concern package  
20      so that it would be available to the public at the  
21      information centre, and underneath that you'll also  
22      notice it says:

23               "Video record available for a number of  
24               the specific areas of concern."

25               Q. So the minutes of that meeting of

1 November the 3rd and the minutes of November the 25th,  
2 1986, appear to set out plans regarding what was to be  
3 happening at the information centre and what was to be  
4 made available at the information centre and that sort  
5 of thing?

6 A. That's correct. In fact what you see  
7 on the November 25th meeting, which is the third last  
8 page in Exhibit 851, is simply the points that were  
9 discussed about how to set the information centre up,  
10 and of interest is point No. 7 where the statement is  
11 made that all services were requested to have a  
12 representative at the open house and in fact that took  
13 place, really the planning team was there to answer  
14 questions that any of the public may have.

15 Q. I understand there is some very -- or  
16 there is some xerox copies of some photographs of the  
17 information centre available or reproduced in some of  
18 the material?

19 A. Yes. We, during the information  
20 centre, took photo pictures of the information centre  
21 itself and copies of those are available on pages 156,  
22 157 and 158 of Book 5.

23 MR. FREIDIN: They are not very good  
24 reproductions, Mr. Chairman. I could undertake to  
25 attempt to obtain originals if it's of interest to the

1 Board.

2 THE CHAIRMAN: I don't know if that's  
3 really necessary. It is just going to show what it  
4 looked like physically.

5 MR. FREIDIN: Okay.

6 Q. You indicated that you had received  
7 some comments by way of comment sheets at the  
8 information centre and is that what constitutes Exhibit  
9 852?

10 MR. MULTAMAKI: A. That's correct.  
11 Those are two of the three comment sheets that were  
12 received. Just as a comment on those three comment  
13 sheets, they were summarized on the last page of  
14 Exhibit 851 under the Summary of Public Consultation.  
15 On that page you will see there is a Part A halfway  
16 down, it says Comment Sheets, those are -- that's a  
17 brief discussion of what each comment was.

18 For example, the first comment was by a  
19 member of the public who was concerned about closed  
20 road and the lack of easy access into Little Vermillion  
21 Lake.

22 The second comment sheet was by a local  
23 tourist operator, in fact that was Mr. Cheney that we  
24 discussed on Little Vermilion Lake endorsing the road  
25 alternative to the north of the lake, Little Vermilion



1 Lake, where his outpost cabins are located. He in fact  
2 endorsed that option No. 4 or the Valhalla Road as it's  
3 shown in the plan.

4 There was one comment by a local timber  
5 operator requesting minor changes to four individual  
6 stands. And, incidentally, the last two comments we in  
7 fact did implement in the plan. We in fact chose the  
8 road corridor that Mr. Cheney recommended and we  
9 implemented the changes in those four individual stands  
10 that the timber operator had commented upon. In  
11 addition --

12 Q. Did you -- sorry, go ahead.

13 A. I was going to say, in addition to  
14 this, we also had some letters that had taken place as  
15 a result of both the mail-out and perhaps people  
16 visiting the information centre. There was a letter  
17 from the local tourist operator with concerns about  
18 Jamie Mine Road, No. 9, and its proximity to Hammel  
19 Lake.

20 Again, this was Mr. Cheney who also has  
21 an outpost camp on Hammel lake. In fact it was -- the  
22 resolution to that was that we move the road several  
23 hundred metres further east and he seemed satisfied  
24 with that.

25 We also had one letter from the Ministry

1 of Citizenship and Culture requesting information. We  
2 in fact responded to that and we had one letter from  
3 Great Lakes Forest Products responding to the proposed  
4 road access program where an option crossed the Trout  
5 Lake Forest and, in fact, they said: Yes, that there  
6 was no problem with crossing the area licensed to  
7 themselves and we would work out the actual details in  
8 the way of harvesting and so on of the road right-a-way  
9 during the annual work schedule level.

10 Q. Did you have any sort of -- did you  
11 follow any particular practice in Red Lake regarding  
12 whether you would respond in writing to people who made  
13 comments at the information centre, who responded to  
14 notices by way of letters or telephone calls?

15 A. Yes. It was our practice in Red Lake  
16 to respond in writing to all concerns or comments  
17 received from interest groups or the general public and  
18 in fact there is a letter within the files to a Mr.  
19 Rowe from Snake Falls fly-in where he had a discussion  
20 with myself about a small lake on the Red Lake Crown  
21 Management Unit that he used to acquire bait fish,  
22 minnows, it was a minnow lake of his, and he was  
23 concerned that harvesting operations -- or where  
24 harvesting operations were going in relation to that  
25 lake, and it's documented in a letter. My response to

1 him that in fact there were no harvest operations  
2 planned in the immediate vicinity of that lake.

3 So it was our policy to respond to phone  
4 calls and so on in writing and I think Mr. Kennedy  
5 yesterday pointed that out, that we do generally  
6 respond in writing to those things.

7 Q. Mr. Kennedy, does the planning  
8 process which has been put forward to this Board  
9 address how documents such as the summary of public  
10 consultation and the back-up material, if you will, to  
11 which it might refer, such as letters, comment sheets,  
12 et cetera, should be handled?

13 MR. KENNEDY: A. Yes, it does. We've  
14 described the purpose of the supplementary  
15 documentation as keeping a record of what has occurred  
16 during the planning process, in particular we made  
17 reference to a summary of the correspondence files and  
18 the individual records that are developed throughout  
19 the planning process.

20 So I think we are able to observe from  
21 Mr. Multamaki's examples that there are files that are  
22 kept that trace the development of the plan, including  
23 all the aspects of the public consultation, the public  
24 notices that are seen in the media, as well as those  
25 individual letters to interested and known parties and

1 the responses, and then the supplementary documentation  
2 contains a summary of that information.

3 Q. Thank you. Mr. Kennedy, I would ask  
4 whether you have any concluding remarks regarding the  
5 subject matter of Document No. 2 before we move on to  
6 Mr. Fleet and Document No. 3?

7 A. Yes, I do. I would like to refer  
8 people to an overhead which has previously been put in  
9 as an exhibit, 822, which we used as an opening to  
10 Document 2 which is titled: Preparing a Timber  
11 Management Plan.

12 MR. FREIDIN: I have it up here on the  
13 overhead, Mr. Chairman.

14 THE CHAIRMAN: Okay.

15 MR. KENNEDY: By way of some concluding  
16 remarks to the evidence given by this panel in relation  
17 to Document No. 2 in Exhibit 813A, we felt that since  
18 we started a number of days ago we should just revisit  
19 our opening remarks and indicate how we believe we have  
20 established the tasks that we had set out to do.

21 We should point out that the timber  
22 management plan itself is not complete yet at this  
23 stage as we leave Document 2; a review is still  
24 required of the proposals that have been prepared at  
25 this time.



1                   We believe that we have adequately  
2       addressed the planning effort and provided a  
3       description of that effort which occurs prior to the  
4       information centre and also given an indication of the  
5       manner in which comments are dealt with that are  
6       received by the public at the information centre and  
7       prior to it.

8                   We've provided a description of the  
9       components of the production of the timber management  
10      plan. Each one of those components, there has been a  
11      general description of the intent or reason for it in  
12      the plan, we have made reference to the sections of the  
13      Class EA Document, Exhibit 4, as well as the various  
14      sections of the Timber Management Planning Manual,  
15      Exhibit 7, to illustrate where the direction and format  
16      content can be seen relative to each component, and  
17      we've also used examples primarily from the Red Lake  
18      plan to illustrate both the application of the planning  
19      process as well as the format content of a timber  
20      management plan to illustrate the documentation of the  
21      results of that planning process.

22                  We had indicated at the outset that we  
23      were planning to include a discussion of old versus new  
24      at the end of the planning process. We have attempted  
25      to highlight those changes as we have gone throughout

1 the evidence relating to this Document 2.

2 We now decided to delay a complete  
3 discussion of that until the end of the panel in order  
4 to address the additional subject matters and questions  
5 that have been raised and we think will continue to be  
6 raised for the balance of the evidence during the  
7 direct, so we would suggest we wait until the end of  
8 panel to do that.

9 I would also like to indicate that when  
10 we set out Document No. 1 we made reference to a timber  
11 management plan simplified, Exhibit 817. I don't think  
12 there is a need to put that overhead up, but during the  
13 production of a timber management plan I think you've  
14 seen where we've been able to take a look backwards, as  
15 I indicated, use information such as the report of past  
16 forest operations.

17 We've updated information as the plans  
18 were being prepared by such steps as described in the  
19 assembly and analysis of background information, which  
20 included public consultation, and we've taken a look  
21 ahead while we are preparing the plan, as indicated by  
22 the development of objectives, targets and strategies,  
23 as well as through the planning process, we've  
24 developed a number of forecasting tables and they  
25 provide a forecast of the activities that will occur

1 over the next five years.

2 All of that information has been recorded  
3 and written into a draft form and now the timber  
4 management plan is submitted in a draft form and is  
5 ready for approval -- excuse me, ready for review and  
6 approval which is the subject matter of Document No. 3  
7 which we will go to next.

8 MR. FREIDIN: Document No. 3 which is  
9 entitled: The Timber Management Plan Review and  
10 Approval Process begins at page 225 of Exhibit 813A.

11 MR. FLEET: Excuse me, Mr. Chairman. If  
12 I could have a brief moment to discuss with Mr.  
13 Freidin. Could I request that?

14 THE CHAIRMAN: (nodding affirmatively)

15 MR. FLEET: Thank you.

16 ---Discussion off the record

17 MR. FREIDIN: Mr. Chairman, I would like  
18 to begin this panel by filing as the next exhibit a  
19 series of hard copies of overheads. Perhaps it could  
20 be marked as overheads, Document 3, Plan Review and  
21 Approval A-F.

22 THE CHAIRMAN: Exhibit 853 A through F.

23 MR. FREIDIN: (handed)

24 ---EXHIBIT NO. 853: Hard copies of overheads re:  
25 Document 3, Plan Review and  
Approval (Pages A-F).

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MR. FREIDIN: Q. Mr. Fleet, I understand that you would like to make a few introductory comments about the subject of plan review and approval and, for that purpose, we have put up a copy of Exhibit 853A.

MR. FLEET: A. Yes. Mr. Chairman, it is my hope that through the presentation of the evidence for Document 3 I will be able to demonstrate to the Board the messages that you find on this particular overhead and I will just briefly go over those messages.

The first message would be that the review and approval process is a thorough process and indeed it is not a rubber stamping of a submitted draft timber management plan. The review and approval of timber management plans does require professional judgment on the part of the reviewers and it is something that is necessarily then more than just simply compliance or verification with a checklist.

I will show the Board that the review and -- the review of timber management plans is a multi-disciplinary review and that that review involves all three administrative levels of the Ministry of Natural Resources and those, of course, would be the district, the region and our main office.



1                   Both the procedural requirements and the  
2                   documentation requirements of a timber management plan  
3                   and that production are examined during the review and  
4                   approval of a timber management plan.

5                   The application of the provincial  
6                   guidelines which you have heard about previously in  
7                   some of the panels is examined during the review and  
8                   approval and that is part of the multi-disciplinary  
9                   function of that review.

10                  That during the review and approval of  
11                  the timber management plan there are indeed formal  
12                  opportunities for public input and for public review.

13                  I think you will see through this  
14                  comprehensive review and approval process that the  
15                  review and approval process does result in better  
16                  plans.

17                  And finally, because of the somewhat  
18                  evolutionary nature to date of this process and our  
19                  efforts to implement, if you would, the document, the  
20                  Class EA Document and the Timber Management Planning  
21                  Manual, that the review and approval process has led  
22                  both to improvements to the process, and additionally,  
23                  it has helped us to focus on components of the process  
24                  that should be addressed through training.

25                  Q. And, Mr. Fleet, we had a document

1 referred to earlier, Figure 2.1-2, which I believe is  
2 found at page 155 of the Environmental Assessment and  
3 you have reproduced that as part of Exhibit 853 with a  
4 few little changes; is that correct?

5 A. Yes, that's correct.

6 Q. Which document is that?

7 A. If we could first perhaps go, Mr.  
8 Freidin, to page 155 of the Document Class EA, is that  
9 Exhibit 4?

10 Q. Yes.

11 A. Exhibit 4. I would like to point out  
12 sort of as a starting off from where Mr. Kennedy left  
13 off exactly where we are now on that diagram that we  
14 should all be familiar with, that is page 155.

15 Very simply, yesterday and this morning  
16 Mr. Kennedy has indicated that we have now gotten to  
17 the point of the line on that particular figure and  
18 that line says: Submission of draft plan, and my  
19 evidence now focuses on the activities below that line.

20 Q. Could you give a brief review of the  
21 plan review and approval process?

22 A. Sure. Mr. Freidin, could I have the  
23 next overhead which I presume would be 853B. What I  
24 have done is I have had the bottom half of the Figure  
25 2.1-2 blown up to an overhead.

1                   What I would like to do for the Board is  
2           just very briefly highlight the key points of the  
3           review and approval process so that you will know where  
4           I am going with my evidence.

5                   And those points, very briefly then, you  
6           could almost follow along the overhead. First of all,  
7           the overhead is divided into two sides, a left side and  
8           a right side, and if you follow down the left side you  
9           are really talking about the public involvement aspects  
10          of review and approval, and on the right-hand side you  
11          are talking about the MNR involvement of review and  
12          approval.

13                   If I were to present it in a linear  
14          fashion it would be as follows: The line on Figure  
15          2.1-2 starts with submission of a draft plan; the next  
16          step would be an MNR review of that draft plan  
17          resulting in a preliminary list of required alterations  
18          to the draft plan; there would then be a public review  
19          of the draft plan and that public review would also  
20          include a review of MNR's preliminary list of required  
21          alterations.

22                   Following the public review the Ministry  
23          of Natural Resources would then prepare a final list of  
24          required alterations; that would be provided to the  
25          plan author whether that would be either a company

1 person or the Ministry; the plan author would then  
2 pursue the revision to the plan based on that list of  
3 required alterations -- that final list of required  
4 alterations; the plan would be resubmitted to the  
5 Ministry of Natural Resources and the Ministry would  
6 review that revised timber management plan to ensure  
7 that the required alterations had in fact been  
8 completed. If they had, the Ministry of Natural  
9 Resources would approve the plan and then there would  
10 be an opportunity for public inspection of the MNR  
11 approved timber management plan.

12 Q. Could you advise the Board how you  
13 intend to approach the beginning of your evidence, how  
14 you are going to structure your evidence?

15 A. I am hoping to present my evidence  
16 fairly much in the order -- that linear order that I  
17 just presented the review and approval process.

18 In terms of the structure of my evidence,  
19 I think a large part of it will be that first stage,  
20 the MNR review -- the 60-day MNR review and I would  
21 perhaps like to give you the structure of that part of  
22 my evidence at this point in time.

23 What I am going to talk to is the fact  
24 that there are three administrative levels of review  
25 and they are district, region and main office.



1 Q. Okay.

2 A. Mr. Freidin, perhaps if we could put  
3 up overhead 853C. Okay.

4 With respect to the MNR review, the first  
5 component of the review and approval process, there are  
6 three levels of review and those levels are, again, the  
7 district, the region and main office. They are all  
8 involved because of the fact that each of those  
9 administrative levels within MNR both have access to  
10 different knowledge and they also have different  
11 responsibilities within our administrative  
12 infrastructure.

13 The direction for the review at each of  
14 those three levels is provided through, firstly, a  
15 procedure which I will take the Board to and; secondly,  
16 bulletins that provide technical guidance with respect  
17 to what to look for in a timber management plan review  
18 and there is a separate bulletin each for the district  
19 the region and for main office.

20 And then, finally, I hope to identify the  
21 roles of the district, the region and the main office  
22 in the review and approval of a timber management plan.

23 Q. Mr. Fleet, could you advise why there  
24 are three levels of review?

25 A. There are three levels of review for

1 a number of reasons, Mr. Freidin. Essentially I  
2 pointed out that there is access to different knowledge  
3 at each of the three different administrative levels.  
4 For instance, the district office has a far greater  
5 familiarity with the contents of other resource  
6 management plans, the local client groups and so forth,  
7 and each of the different administrative levels also  
8 has a varying -- has different responsibilities with  
9 respect to review and/or approval. The district, for  
10 example, is responsible for recommending the plan for  
11 approval, but the approval responsibility actually does  
12 lie then with the main office and the regional office.

13 Q. So the district manager then  
14 recommends the plan for approval to those two higher  
15 levels of the Ministry?

16 A. Essentially, yes.

17 Q. Has the Ministry defined the roles --  
18 you indicated that the Ministry has prepared a  
19 procedure and a bulletin. Do those in any way define  
20 the roles which are to be played for the people at the  
21 various levels of the administrative organization?

22 A. Yes, I think that is indeed the  
23 purpose of those, Mr. Freidin.

24 Q. Could you just describe briefly what  
25 a procedure is?

1                   A. Yeah, a procedure -- within the  
2       Ministry of Natural Resources we have several  
3       procedures and I guess I would describe them largely as  
4       being administrative in nature and what they do is they  
5       indicate that there are actions that must be taken and  
6       they indicate who has the responsibility for taking  
7       those actions. And, additionally, they quite often  
8       indicate in what time frame certain actions must be  
9       taken, but they are largely administrative in nature  
10      versus being technical in nature.

11                  Q. I think in your opening remarks, in  
12      fact in your overhead here, you refer to the bulletins  
13      providing guidance which is technical in nature. What  
14      exactly do you mean by that, as distinct from the  
15      administrative-type of direction?

16                  A. What I mean, I guess, is that with  
17      the bulletins being technical, the procedure would tell  
18      the appropriate administrative level in the MNR who is  
19      supposed to do what. The bulletins would tell them in  
20      much greater technical detail exactly what it is they  
21      are expected to do.

22                  Q. Could you provide a brief description  
23      of the procedure that you have referred to? First of  
24      all, what page do we find that at?

25                  A. Okay. The procedure will be found in

1 Exhibit 813A pages 252 to 262. Now, I suppose if we  
2 could start -- if we could look then at page 252,  
3 following down to the two headings: Responsibility and  
4 Action, and then the first individual identified under  
5 responsibility is registered professional forester and  
6 the second individual is district manager.

7 Most of our procedures in the Ministry of  
8 Natural Resources are organized in that type of  
9 fashion, the left-hand side indicates an individual or  
10 a level of administration responsible for the action  
11 which is then identified on the right-hand side, and I  
12 think it can also generally be said when looking at a  
13 procedure that they more or less are presented in a  
14 chronological fashion although there are some steps;  
15 for example, in this procedure where there will be  
16 seven or eight actions presented in what might appear  
17 chronological but in fact would occur simultaneously.

18 Q. Now, Mr. Fleet, as I look at this  
19 particular procedure which is to deal with the subject  
20 of review and approval of timber management plans for  
21 Crown land in Ontario, it appears that there are a  
22 number of sections which deal with plan preparation as  
23 distinct from the review and approval process; is that  
24 correct?

25 A. Yes, that would be correct. Even



1       though this particular procedure is titled: Plan  
2       Review and Approval, there are a number of actions, in  
3       fact actions 1 through action 22, that largely deal  
4       with those initial administrative steps involved in  
5       plan production.

6                       And I guess the reason that some of those  
7       are indeed in there are, for example, if you were to go  
8       to action No. 12, action No. 12(b) plan advisors and  
9       reviewers are identified. So that there are some  
10      component of the plan production part of this  
11      particular procedure that are indicative to those who  
12      would be responsible for the review that they will be  
13      responsible for review of a particular plan and that  
14      they can indeed then start preparing for their review  
15      responsibilities.

16                     Also that they -- it's a flag to them  
17      that they should get involved with the informal part of  
18      plan review and approval at an early stage.

19                     Q. I understand later on we will be  
20      talking about the involvement of some of these people  
21      at the regional and main office level actually getting  
22      involved in plan preparation?

23                     A. That's right.

24                     Q. You indicated that the first 22  
25      pararaphs deal with plan preparation. Can we then

1       assume that 23 to the end deal with the subject matter  
2       of plan review and approval?

3                     A.   That is a safe assumption, Mr.  
4       Freidin.

5                     Q.   Okay.   Just while we are talking  
6       about this involvement of regional and main office in  
7       the actual plan preparation as well as review, what is  
8       the reason for encouraging that?  Why does the Ministry  
9       encourage these people to get involved in the earlier  
10      stages of plan preparation and not just wait for the  
11      plan to sort of show up on their desk?

12                    A.   There are a variety of reasons why  
13      you would encourage the plan reviewers to get involved  
14      early, for example, during plan production.

15                    Both the regional reviewers and the main  
16      office reviewers will be in dialogue at various stages  
17      during the process with the plan producers, the people  
18      at the regional office who have responsibility for  
19      reviewing several plans, therefore, they would have an  
20      understanding of and exposure to a variety of plans and  
21      they could provide clarification or they could show  
22      examples of good practices in other plans to people on  
23      a particular planning team.

24                    THE CHAIRMAN:  Mr. Fleet, how do you walk  
25      the fine line between having knowledge of what you are

1 reviewing and being involved and objectivity? Have you  
2 not sometimes run into the danger that the reviewers  
3 consider it to be their plan as well and, therefore,  
4 should be approved?

5 . MR. FLEET: No, I don't think that that  
6 would be the case. The preliminary and informal  
7 involvement is largely consultative. For example, the  
8 district would contact the regional or main office for  
9 clarification on different issues. The regional people  
10 by getting involved early - and that might be, for  
11 example, attending the information centre that Mr.  
12 Multamaki spoke of - they would then have general  
13 knowledge of some of the issues. They might have a bit  
14 of an understanding of the client -- they would have an  
15 understanding of the client groups. They would I think  
16 then be able to speak with a better knowledge, but I  
17 don't think that they would be biased, they would just  
18 be better informed.

19 MR. FREIDIN: Q. Is there anything else  
20 you wanted to say on that topic of why you encourage  
21 that involvement early or any other advantages of that?

22 MR. FLEET: A. I guess another reason  
23 there would be early involvement would be, for  
24 example - and I think we have referred to it several  
25 times - this is for us in the Ministry of Natural

1 Resources, particularly for first-time planning teams  
2 and plan authors, a bit of an evolutionary and a  
3 learning experience, and so it would be very helpful to  
4 some planning teams to have the early involvement of  
5 plan reviewers, either from the region or from main  
6 office, to make sure that what is expected of the  
7 process in fact does become submitted when the draft  
8 plan is submitted.

9 Q. Are there any steps in the plan  
10 review and approval section of the procedure that you  
11 wish to highlight?

12 A. I think it would be helpful, Mr.  
13 Chairman, if I could in fact spend a few minutes and go  
14 to two or three or more of the specific actions  
15 identified in the procedure to give you an example of  
16 the range of responsibilities that are outlined in that  
17 particular procedure.

18 I was thinking too with respect to the  
19 previous questions about what is a procedure and what  
20 is a bulletin, I was explaining that a bulletin is  
21 technical in nature. As we get into this three or four  
22 or five points or highlights of this procedure I think  
23 you will find indeed that what the procedure does is  
24 outlines the responsibilities for keeping track of and  
25 ensuring the timing of the paper trail associated with



1 preparing and approving a timber management plan.

2 If we could then look in the procedure,  
3 813A, at action Item No. 23 as a good place to start.  
4 That would be page No. 256.

5 On the left-hand side where it says RPF,  
6 generally that would mean plan author and that  
7 particular action item merely states that it is the  
8 responsibility of the plan author to submit prior to  
9 the due date a copy -- a few copies of the draft timber  
10 management plan.

11 If we would then go to page 258 action  
12 Item No. 33 and this item basically suggests that the  
13 district manager must, by some means, have a  
14 preliminary list of required alterations prepared for  
15 that submitted draft plan of Item 23.

16 On the same page, Item No. 36 indicates  
17 that it is the district manager's responsibility to  
18 issue a public notice and direct notice of the public  
19 review now of that draft timber management plan.

20 Moving over to page 259, action Item No.  
21 40 basically says that the district manager will  
22 respond to all comments received as a result of that  
23 public review and will indicate what consideration, if  
24 any, has been given to those public comments.

25 Action Item No. 41 indicates that the

1 plan author will prepare a summary of those comments  
2 and it says:

3 "For inclusion in the timber management  
4 plan."

5 And on the same page 259, Item No. 43  
6 indicates that the Director of Timber Sales will  
7 endorse and forward the final list of required  
8 alterations to the plan author.

9 So I guess to reiterate, really what this  
10 does is this organizes the responsibilities and actions  
11 of the actual moving of the paper and the parts of the  
12 review and approval process.

13 We have two additional action items that  
14 I would like to draw your attention to, perhaps  
15 resulting from I think it was yesterday's discussion,  
16 and that would be on page 259.

17 Again, action Item No. 39, the district  
18 manager forwards one complete copy of the draft timber  
19 management plan, including supplementary documentation  
20 and the final list of required alterations, to the  
21 Ministry of the Environment at Environmental Assessment  
22 Branch and, additionally, action Item No. 53 on page  
23 260, notifies the regional office - this is the  
24 Director of Timber Sales now doing this - notifies the  
25 regional office of MOE and the Environmental Assessment

1 Branch, MOE main office, that a timber management plan  
2 has been approved by the MNR and we would submit a copy  
3 of the timber management plan and supplementary  
4 documentation.

5 And, Mr. Chairman, the reason I bring  
6 those two particular action items to your attention is  
7 with respect to the discussion we had the other day  
8 regarding deviation reporting and you were asking: Was  
9 that supplementary documentation at any time provided  
10 to the Ministry of the Environment, and these are the  
11 two action items in the procedure that indicate that it  
12 would be MNR's place to do that.

13 THE CHAIRMAN: Thank you.

14 MR. FREIDIN: Can I have one moment.

15 MR. FLEET: Perhaps, Mr. Freidin, I could  
16 also introduce term and condition No. -- draft term and  
17 condition No. 23 at this point.

18 MR. FREIDIN: Q. All right. That  
19 probably will address the matter that I just wanted to  
20 ask you about. Okay, Mr. Fleet.

21 MR. FLEET: A. Mr. Chairman --

22 THE CHAIRMAN: Excuse me, just before we  
23 go on, if I might interrupt here.

24 Mr. Campbell, when it comes time for your  
25 evidence, based on some of this commentary by Mr.

1 Fleet, consider whether it is appropriate that the  
2 plans are directed to the Environmental Assessment  
3 Branch of the Ministry of the Environment as opposed to  
4 the regional or district offices.

5 MR. FREIDIN: It goes to both. I think  
6 the subject matter of this term and condition which is  
7 going to be read --

8 THE CHAIRMAN: 53 does, but I am  
9 considering No. 39 I think.

10 MR. FREIDIN: No, no, not the procedure.  
11 The term or condition -- I was going to ask the witness  
12 whether in fact -- there is an amendment to the -- or  
13 an errata, if you want, to the Environmental Assessment  
14 Document. You will find it at page 224 of Panel No.  
15 15's witness statement which expands this -- refers to  
16 a particular bulletin, direction to the field that in  
17 fact this particular draft timber management plan  
18 should be directed not only to the Environmental  
19 Assessment Branch but to the regional office of the  
20 Ministry of the Environment as well.

21 And I think that's the term and condition  
22 that Mr. Fleet -- that is the term and condition in  
23 Exhibit 700, draft term and condition, that he is going  
24 to refer to in fact does in fact address that subject.

25 THE CHAIRMAN: Okay. Well, that



1       certainly is a concern because it would seem to me of  
2       my limited knowledge of the administration of the MOE  
3       that the more appropriate office would be the regional  
4       offices which would have knowledge of some of the local  
5       matters to a much better extent than the main office in  
6       Toronto would be able to address some of the concerns  
7       raised in the draft plan.

8               MR. CAMPBELL: Well, that's certainly why  
9       that change was requested, Mr. Chairman.

10              I just wanted to comment though on one  
11       remark that I know you've made now several times which  
12       is when MOE is calling its evidence in this matter.

13              I think I should reinforce that, as I  
14       said earlier in these proceedings, we have not yet  
15       decided whether to call evidence and I will tell you  
16       now that we are still a long way away from that  
17       decision.

18              THE CHAIRMAN: Okay. Well, I suppose  
19       that was a slip of the tongue, but somehow I wanted to  
20       get the message across to the Ministry of the  
21       Environment that some of these concerns which affect it  
22       directly should be addressed perhaps in some way,  
23       whether it's by calling evidence or raising it by way  
24       of submission or whatever.

25              MR. CAMPBELL: You can be certain that

1       they will be addressed.

2                   THE CHAIRMAN:   Okay.

3                   MR. CAMPBELL:   Whether that is by calling  
4       evidence is a different decision.

5                   THE CHAIRMAN:   Thank you.

6                   MR. FREIDIN:   Everybody just wants to see  
7       you in action, Bruce.

8                   Mr. Bisschop, would you like to make a  
9       comment in relation to that?

10                  MR. BISSCHOP:   Just to clarify, Mr.  
11       Chairman.   This entire matter was addressed by the  
12       Ministry of the Environment at the time of the  
13       government review of the Class EA, and at that time we  
14       made the decision to do exactly what you've said,  
15       address the copies of the documents to both offices.  
16       In that sense the procedure is somewhat out of date, it  
17       hasn't incorporated that requirement.

18                  THE CHAIRMAN:   Thank you.

19                  MR. FLEET:   And perhaps along that line,  
20       I could perhaps draw your attention to the top of  
21       probably every page of that procedure and it seems to  
22       be conveniently stamped draft at this point in time.  
23       So we would indeed be able to make the appropriate  
24       changes.

25                  MR. FREIDIN:   And I think that stamp

1 appears on all of the bulletins as well.

2 MR. FLEET: That's correct.

3 THE CHAIRMAN: Every document in this  
4 entire proceeding appears to have draft on it. I  
5 suppose the only thing that may be final will be our  
6 decision at some point.

7 MR. FREIDIN: It seems that whether it  
8 has draft on it or not, they are all subject to  
9 becoming drafts.

10 MR. FLEET: Mr. Chairman, term and  
11 condition No. 23 is a rather brief term and condition  
12 that I propose to just read into the record:

13 "MNR shall ensure that copies of all  
14 draft timber management plans and  
15 approved timber management plans and the  
16 accompanying supplementary documentation  
17 are provided to the appropriate regional  
18 office in the Environmental Assessment  
19 Branch of the Ministry of the  
20 Environment."

21 THE CHAIRMAN: What number was that  
22 again, sorry?

23 MR. FLEET: That's term and condition No.  
24 23, draft.

25 THE CHAIRMAN: Thank you.

1                   MR. FREIDIN: Q. You indicated there are  
2                   three bulletins, one for the district, one for the  
3                   region, one for the main office. And the district  
4                   bulletin -- well, it starts at page 263, the  
5                   regional -- or the bulletin in relation to the regional  
6                   review begins at 290 and the main office bulletin  
7                   starts at page 299.

8                   Are there any comments that you would  
9                   like to make in relation to those bulletins, Mr. Fleet?

10                  MR. FLEET: A. Yes. Mr. Chairman,  
11                  before I get into some of the highlights of those  
12                  particular bulletins I think I'd like to make a few  
13                  comments and those would be, once again, that the  
14                  bulletins do provide the technical direction versus  
15                  what you now have seen to be the procedure and largely  
16                  the administrative direction.

17                  The bulletins are the most detailed at  
18                  the district level and they become -- and they are also  
19                  the most technical at the district level and they  
20                  become less detailed and less technical at the regional  
21                  level, and even more so again at the main office level,  
22                  and that reflects the nature of the review at each of  
23                  the three levels I think to a degree.

24                  And it also -- I guess it reflects the  
25                  scope of the review with respect to the number of



1 subject matters examined at each of the levels.

2 Q. Are there any specific provisions of  
3 the district bulletin that you would like to highlight  
4 in a fashion similar to what you did with the  
5 procedure?

6 A. Yes. If I could again just walk us  
7 through a few of the specific components of, in this  
8 case, the district review bulletin. I don't mean to go  
9 through all of it, there is 27 pages of the district  
10 review bulletin and quite a complex amount of detail,  
11 but if I could highlight some to perhaps give the Board  
12 a sense of the range of matters dealt with in that  
13 review bulletin.

14 The first part of the bulletin that I'd  
15 like to highlight would be on page 263, the third full  
16 paragraph beginning with the sentence:

17 "The district review..."

18 And midway through that particular  
19 paragraph there is the statement:

20 "If any significant timber management  
21 plan requirements are missing from the  
22 draft plan as submitted to the district,  
23 it is expected that the plan will be  
24 returned to the plan author immediately  
25 and the review will cease until a

1 complete...plan is re-submitted."

2 It also goes on to say that if that does  
3 happen it's likely that\*the review and approval of the  
4 plan will be delayed. So that's a very specific  
5 direction to the district with respect to their receipt  
6 of a draft plan, that if they receive something that  
7 isn't complete, in the sense that it doesn't meet the  
8 minimum requirements of the timber planning manual,  
9 they should send it back.

10 Q. Is there any example of that actually  
11 occurring?

12 A. Yes. We are going to be providing an  
13 example in our evidence of exactly such an occurrence  
14 and that would be for the Lac Seul Forest draft timber  
15 management plan.

16 MR. FREIDIN: I can just give you the  
17 reference to that now, but we will deal with it later,  
18 Mr. Chairman. The reference to that particular portion  
19 of the document is page 307 to 352.

20 THE CHAIRMAN: Thank you.

21 MR. FREIDIN: Q. Which could be  
22 described as the district's preliminary list; is that  
23 correct.

24 MR. FLEET: A. Yes.

25 Q. Okay.

1                   A. If we can move to page 264, the  
2 fourth paragraph titled: Recommendation, and this  
3 relates now to the title page of the draft timber  
4 management plan where the district manager recommends  
5 the plan for approval, and this paragraph basically  
6 addresses indeed what the district manager's signature  
7 in this case means and what that recommendation means,  
8 and the actions that would have been expected on behalf  
9 of the district manager to have taken place prior to  
10 his recommendation for that plan being approved.

11                   Q. Okay, Mr. Fleet.

12                   A. With respect to that paragraph maybe  
13 I could just point out point No. 3, it says:

14                   "...is consistent with local plans,  
15 policies and guidelines..."

16                   Local in that sentence refers to local  
17 plans, although I think it reads perhaps also local  
18 policies and guidelines. It really does refer  
19 specifically to local plans in that case only.

20                   If we can move on to page 266, the second  
21 full paragraph, this is some direction to the district  
22 reviewers that I would describe as general direction  
23 perhaps versus detailed or technical direction  
24 regarding their review of the report of past forest  
25 operations, and it indicates such things as the

1 district must verify the report of past operations is  
2 complete, identify significant differences between  
3 planned and actual, that the review will either confirm  
4 or result in revision to strategies and so forth.

5 This is a general direction and I'm going  
6 to take you now to some far more technical, I think,  
7 direction included in this particular piece.

8 On page 267, the fourth paragraph, under  
9 the title: Actual Depletions Total, this is some  
10 fairly specific technical direction basically telling  
11 the district reviewers to make sure that the math is  
12 correct, and it draws some linkages to the previous  
13 plan and things that have gone on and the -- first of  
14 all, it's almost a given that the math should be  
15 correct, of course, but the reason why the specific  
16 direction would be given in a bulletin with regard to  
17 review is that there are a number of recommendations or  
18 conclusions drawn from some of the math and the numbers  
19 presented in the tables.

20 Well, if we haven't done the very basic  
21 making sure that the numbers are correct, then indeed  
22 some of the conclusions that we may draw could be  
23 erroneous.

24 And then if we can move quickly then  
25 through to page 286 - I'm skipping a great amount of



1       this now.

2                   THE CHAIRMAN: Mr. Fleet, just out of  
3       curiosity, if we take an example of the Red Lake plan  
4       which was seven volumes--

5                   MR. FLEET: Yes.

6                   THE CHAIRMAN: --and the district manager  
7       is required to sign off after it is submitted to him  
8       and check all of these things, both the technical  
9       bulletins as well as the other administrative  
10      procedures, is a lot of this stuff delegated?

11                  MR. FLEET: Absolutely. Most of it is  
12      delegated, yes.

13                  THE CHAIRMAN: Because otherwise he  
14      wouldn't have much time to manage his district, I would  
15      assume.

16                  MR. FLEET: He would be doing full-time  
17      timber management plan review I would think.

18                  THE CHAIRMAN: And so he would receive  
19      the advice of his staff as to various sections of the  
20      plan that might have been reviewed by specific  
21      individuals?

22                  MR. FLEET: Yes. And often what will  
23      happen is he will rely on his staff to give both advice  
24      and perhaps the district manager, being aware of local  
25      issues and so forth and having perhaps been at

1 information centres or attended some of the planning  
2 team meetings, will know the appropriate questions too  
3 to ask with respect to what has been done.

4 THE CHAIRMAN: So is his role  
5 essentially, if I might put it for lack of a better  
6 term, a problem solver?

7 If there is areas of the plan that some  
8 of his staff are concerned about or aren't sure about,  
9 he might be called in to sort of settle disputes and  
10 things like that, as opposed to having a hands-on  
11 actual review function. I know he has got the  
12 responsibility, but I am more concerned about the  
13 actual work.

14 MR. FLEET: As the senior administrative  
15 person ultimately he does have the responsibility, yes,  
16 and a large part of the actual work is done by  
17 delegation. Perhaps a way to describe the district  
18 manager too would be as a decision-maker in the case of  
19 unresolved issues.

20 MR. FREIDIN: Q. Would the same comment  
21 that you just made about the district manager and his  
22 staff apply to the situation at the regional level with  
23 the regional director and at the main office with the  
24 Director of Timber Sales?

25 MR. FLEET: A. That would be the same

1 situation. In fact, if you recall the procedure where  
2 it says this is the person responsible for a certain  
3 action; it is the custom, I guess in the Ministry of  
4 Natural Resources anyway, to identify, if you will,  
5 with respect to the responsibility for an action the  
6 senior administrative person and it's assumed in many  
7 cases that that then is delegated, but that they  
8 ultimately have the authority.

9 MR. MARTEL: Well, at the main office and  
10 the regional office, do you have a team in a sense that  
11 does it pretty well province-wide?

12 At the district level you have different  
13 individuals, but at the regional level and at the main  
14 office would you have people who just -- primarily  
15 their function is that?

16 MR. FLEET: Yes, that's close. As you  
17 move up to the main office review the scope of the  
18 review is narrower and so, yes, a smaller group of  
19 individuals are able to look at a larger number of  
20 plans.

21 MR. FREIDIN: Mr. Martel, I wasn't sure  
22 what you meant when you said whether people at the  
23 region or main office -- if their function was  
24 primarily that.

25 MR. MARTEL: Well, that was the question.

1       What I am saying is: Is it concentrated in a smaller  
2       group because they have a larger number to look at and  
3       their main responsibilities might be directed. They  
4       become real specialists in that field.

5                   MR. FLEET: I think that's a fair  
6       assumption, Mr. Martel. When I was in fact working in  
7       main office my title was specialist and I focused a  
8       large amount of my time on the review of timber  
9       management plans.

10                   If we could go to page 286, the bottom  
11       paragraph titled: Table 4.19, Forecast of Renewal and  
12       Maintenance Operations, the direction provided in this  
13       particular table to the reviewers is to ensure that the  
14       numbers in that particular table are -- or would  
15       corroborate or have the proper linkages to the numbers  
16       in Table 4.13 and those parameters that were used to  
17       calculate the maximum allowable depletion number.

18                   So that what you're looking at here is  
19       you have now forecast renewal and maintenance. In your  
20       plan review you should make sure that the forecast  
21       reflects, for example, the amount of area that would be  
22       required as expressed by the regeneration success in  
23       the MAD calculation earlier.

24                   It's just a quick check to make sure that  
25       there are the proper linkages amongst the tables and



1 the values throughout the timber management plan.

2 MR. FREIDIN: Q. And although we are not  
3 going to comment on any more of these specific  
4 provisions of this bulletin, is there any comment you  
5 would like to make about the district bulletin or --  
6 pardon me, the bulletin in relation to the district  
7 review before we move on to the region?

8 MR. FLEET: A. Yes, I agree I don't  
9 think it's necessary to go through any more of the 27  
10 pages of the district review bulletin. I guess the  
11 comment that I would like to make is that the majority  
12 of the material in that particular bulletin relates to  
13 a great degree to the subject matter that was presented  
14 to us over the previous four days by Mr. Kennedy and  
15 Mr. Multamaki.

16 THE CHAIRMAN: Maybe this would be a good  
17 time to take the break?

18 MR. FREIDIN: Yes.

19 THE CHAIRMAN: 20 minutes.

20 ---Recess taken at 9:55 a.m.

21 ---On resuming at 10:30 a.m.

22 THE CHAIRMAN: Thank you. Be seated,  
23 please.

24 MR. FREIDIN: Q. Mr. Fleet, having  
25 reviewed the district bulletin, could you advise how

1 the bulletins for regional and main office review  
2 compare to the district bulletin?

3 MR. FLEET: A. Yes, Mr. Freidin. I  
4 think, as I mentioned briefly earlier, that the key  
5 differences are that the regional bulletin and the main  
6 office bulletin when compared to the district bulletin  
7 provide a lesser degree of detail and technical  
8 direction than the district bulletin and that reflects  
9 the nature and scope of the plan review at those  
10 administrative levels.

11 Q. Do they nonetheless provide some  
12 technical direction and deal with a variety of subject  
13 matters?

14 A. Even though it is less, yes, they do  
15 still address a variety of subject matters and they do  
16 provide some technical direction, yes.

17 Q. Is the primary concern of regional  
18 review any different than that for district review?

19 A. I think you could say that it is  
20 different, there are some elements that are similar  
21 and, in a sense, part of the regional review and the  
22 bulletin provide direction for an almost double check  
23 of what the district has been directed to do in their  
24 review.

25 One of the primary differences, if you

1 would, with respect to the regional review would be the  
2 coordination of resource management across district  
3 boundaries or, in certain cases, across regional  
4 boundaries and just generally the coordination of  
5 resource management.

6 Q. And I think there is quite a  
7 reference to -- along those lines at page 290?

8 A. Yes, Mr. Freidin. If we could  
9 perhaps -- Mr. Chairman, if we could deal now with the  
10 regional bulletin, what we have done with the procedure  
11 and the district bulletin, there are a couple of  
12 components of that bulletin that I would like to take  
13 the time to highlight at this time.

14 And the first one would be on page 290 of  
15 813A, the second paragraph from the bottom starting  
16 with the words:

17 "In addition..."

18 Basically it says:

19 "In addition the Region concentrates  
20 their review on items having cross-  
21 District, Region or unit implications..."

22 Dealing with such matters as wood supply,  
23 nursery stock demand, application of guidelines and so  
24 forth.

25 We will be talking in more detail to each

1 of those matters later, but it talks to the idea of one  
2 of the regional roles as being concentrating on the  
3 cross-district/cross-region nature.

4 The next example I would like to take you  
5 to in the regional bulletin would be on page 297, the  
6 second and third paragraphs beginning:

7 "Often, access plans for a management  
8 unit..."

9 Basically this is specific direction  
10 under the access plan part of the review of the draft  
11 timber management plan that it would be the region's  
12 role in the review to make sure that access planning  
13 has been coordinated, and it indicates that there would  
14 perhaps be close liaison amongst adjacent units or  
15 districts and so forth.

16 And the region in their review of a  
17 timber management plan would ensure that this in fact  
18 has happened and this too might - going back to an  
19 earlier question of yours - this might be one of the  
20 examples where it's important for the region to perhaps  
21 be involved earlier on.

22 If, for example, there was not  
23 coordination at an earlier stage and that example or  
24 that occurrence of perhaps the lack of coordination  
25 came up only upon submission of the draft plan, it



1 might be then -- it wouldn't be too late of course to  
2 make any changes, but it would require at that stage a  
3 great degree of going back and doing it over.

4 Q. In relation to the main office -- or  
5 the bulletin in relation to main office review, is  
6 there any express or stated direction in the main  
7 office bulletin which is unique to the main office,  
8 something that's not included in the direction provided  
9 to the district or the region?

10 A. Okay. Again, there are elements of a  
11 main office review which do bear some similarity to the  
12 regional review and there is again, I guess if you  
13 would, a small component of checking on in fact what  
14 has occurred in the regional review.

15 But one of the significant differences,  
16 if you would, between the regional review and the main  
17 office review would be the fact that the main office  
18 review is not multi-disciplinary and that there is a  
19 focus on long-term wood supply generally in the main  
20 office review.

21 Q. On page 300, it states in the last  
22 full paragraph on the page that the main office -- the  
23 second last paragraph states that:

24 "The main office review may address  
25 issues which will extend beyond the

1 boundaries of a management unit, district  
2 and region, or may involve a time period  
3 other than the current TMP period."

4 Could you explain what is meant by that  
5 and why the aspect of matters which extend beyond the  
6 region are in fact dealt with by the main office?

7 A. Yes, Mr. Freidin. In terms of -- if  
8 I can just go back for a bit here. In terms of one of  
9 the differences between the direction and the regional  
10 bulletin and the main office bulletin, you will find  
11 the words in the regional bulletin 'coordinating  
12 cross-district or cross-regional', and in a sense  
13 almost you might think of that cross referring to  
14 adjacent, okay, issues which could be impacted by  
15 adjacent management units or coordination that occur in  
16 the regional.

17 With respect to the main office review  
18 bulletin, where we use the phrase really 'beyond the  
19 boundaries of a management unit', I think we are  
20 thinking there more in terms of the idea of multi in  
21 the sense that perhaps something that occurs on a  
22 particular management unit may be precedent-setting and  
23 may then apply to all management units.

24 And if you could perhaps repeat your  
25 question, Mr. Freidin?

1                   Q. Well, are there any practical  
2       benefits to having the main office looking at these  
3       sort of matters, matters that might have implications  
4       across more than the cross-regions?

5                   A. Yes, absolutely. Because of the fact  
6       that the main office reviews all plans to be approved  
7       in the province, they have a more provincial  
8       perspective, if you will, they see all plans. So they  
9       would have a -- and I referred earlier, they would have  
10      perhaps a different knowledge than that which was at  
11      the district and, in that sense, they would be able to  
12      look at certain components of the plan such as, for  
13      example, recordkeeping or silviculture guides, the  
14      adoption of generic or class prescriptions for areas of  
15      concern.

16                  And from their perspective of having  
17      viewed all management plans, they could look at those  
18      in terms of being issues which extend beyond the  
19      boundaries of a management unit itself.

20                  Q. And perhaps even beyond the  
21      boundaries of regions, a particular region?

22                  A. Certainly, yes, it would be indeed  
23      provincial impact.

24                  Q. And could you provide -- is there any  
25      example of the main office serving that particular

1 function resulting in a practical -- something  
2 practical, something actually coming out of main office  
3 reviewing all plans?

4 A. I think an example of that would be  
5 the identification of areas which we need to focus our  
6 training efforts, for example, as one result of a -- of  
7 main office's look at all timber management plans.

8 If there is something that is good in one  
9 timber management plan and it works well and that we  
10 feel might be suitable for adoption provincially, as a  
11 result of main office having this look at and  
12 involvement with all timber management plans being  
13 reviewed in a given year, that aspect could indeed be  
14 incorporated as a function of the review process.

15 Q. Is there any one aspect of the main  
16 office review that you believe is particularly  
17 important to refer to before we move on?

18 A. Yes. Again, I think the long-term  
19 wood supply is the aspect of the main office review.  
20 And I was thinking what I could do, Mr. Freidin, is  
21 take us to two or three components of the main office  
22 review bulletin and show you the nature of the  
23 direction--

24 Q. Okay.

25 A. --provided in that particular



1       bulletin to main office staff.  If we could go to page  
2       304 of 813A, under (4) Maximum Allowable Depletion, the  
3       second bullet:

4                       "Main office evaluates the long-term  
5                       effect on the forest (old vs new) using  
6                       present or revised parameters."

7                       So in essence what is the direction here,  
8       it is in less detail than the direction you would find  
9       in the district or the regional bulletin.  What it  
10      indicates is that when reviewing the plan at main  
11      office you really want to look at the plan from the  
12      point of view of a time period extending beyond the  
13      period of the timber management plan; and with respect  
14      to the maximum allowable depletion, you want to look at  
15      the long-term wood supply in that relationship which we  
16      probably have discussed in earlier panels with respect  
17      to old forest and new forest.

18                      Q.  Are you suggesting that the other  
19      levels, the district and the region, do not look at  
20      long-term wood supply?

21                      A.  The other levels additionally look at  
22      long-term wood supply.  I'm not suggesting that they  
23      don't, I'm suggesting that there may be -- there is a  
24      specific role by main office to very clearly focus  
25      their review on at least that part of the timber

1 management plan.

2 Perhaps I could go to a couple more  
3 examples so that I don't leave the Board with the  
4 impression that all the main office review consists of  
5 is just simply long-term wood supply.

6 On page 302, the first paragraph, report  
7 of past forest operations:

8 "Main office confirms that the  
9 conclusions reached and recommendations  
10 made as a result of past forest  
11 operations are consistent with current  
12 policies, objectives, strategies,  
13 guidelines and sound forestry practices."

14 So, in other words, we have certain  
15 provincial policies and there may be recommendations in  
16 the timber management plan, and if they are at odds  
17 with, for example, provincial policy, it would be main  
18 office's role to ensure that that was examined and, if  
19 appropriate, revised or at least rationalized.

20 THE CHAIRMAN: Mr. Fleet, do you not feel  
21 that articulating the role of main office in the review  
22 process and concentrating it so heavily on the wood  
23 supply issue gives a perception to those who are  
24 looking at the review process that that is its only and  
25 certainly primary concern with sort of minimal lip

1 service to the fact that other provincial policies  
2 would have to be adhered to or at least considered such  
3 as wildlife policies, fisheries policies, some of the  
4 other policies that we have heard about?

5 Now, that is not to say that they aren't  
6 going to take account of these other policies, I am not  
7 suggesting that, but what I am suggesting is, is that  
8 when somebody reads this draft document as to the  
9 components of the main office review the emphasis  
10 certainly, as you indicated, appears to be on  
11 provincial-wide considerations and long-term  
12 considerations in terms of wood supply, but there are  
13 long-term considerations in terms of other resources as  
14 well, such as fisheries policy, moose policy, et  
15 cetera.

16 And rather than burying in some paragraph  
17 the idea that some consideration will be given to other  
18 policies, do you not feel that perhaps more prominence  
19 should be given as well to the components of main  
20 office review dealing with some of these other things?

21 I guess what I am commenting on is the  
22 form of the draft document as opposed to probably what  
23 happens in substance, and I am presuming that in  
24 substance these other policies are in fact looked at,  
25 it's just that you have to look fairly intently at the

1 contents of this document to realize that that in fact  
2 may occur. That is just a comment. How would respond  
3 to that?

4 MR. FLEET: Well, I guess I would  
5 respond by saying that perhaps the form of this  
6 particular bulletin would indeed leave you with that  
7 impression.

8 This bulletin in the truest sense of the  
9 word is a draft but, well above and beyond that, the  
10 bulletin does talk to such things as objectives and,  
11 for example, making sure that the objectives are  
12 consistent with provincial objectives and so forth, and  
13 they would be more...

14 THE CHAIRMAN: I guess what I would  
15 suggest is something, that if you are referring to  
16 objectives you might give some examples, such as  
17 wildlife objectives, fisheries objectives, other types  
18 of tourism objectives, et cetera.

19 Just using the word objectives to  
20 somebody reading this doesn't necessarily twig that  
21 person as to what those objectives might encompass.

22 MR. FLEET: Yeah, two things. It does  
23 leave the reader with that impression, but I think it's  
24 also important to understand the structure of the  
25 review and that is very much that the main office



1 review does largely focus on the forestry side of the  
2 plan.

3 THE CHAIRMAN: I guess the next question  
4 is: Should it?

5 MR. FLEET: I think that -- I am very  
6 comfortable that it should, in the sense that we have  
7 other checks and balances within the administration of  
8 MNR to ensure that the other programs' objectives and  
9 so forth are addressed in any resource management plan  
10 and that would be, for example, the program -- main  
11 office program audits that we talked to in Panel 8.

12 MR. FREIDIN: Q. These are program  
13 audits in relation to programs other than forest  
14 resources?

15 MR. FLEET: A. Well, including forestry  
16 resources, but in addition fish and wildlife and so  
17 forth and so...

18 THE CHAIRMAN: But isn't that sort of  
19 after the horse left the barn? In other words, if you  
20 have got an approved timber management plan that  
21 impairs one of these other program objectives, doesn't  
22 the audit thing pick that up after the fact?

23 MR. FLEET: Possibly the audit could pick  
24 it up after the fact but, more importantly, just with  
25 respect to the regional -- defining the regional role

1 and defining the district role in the review and  
2 approval process, it is suggested that because those  
3 are multi-disciplinary and you now have had a plan  
4 prepared in a multi-disciplinary fashion and you have  
5 had it checked twice through a review process in a  
6 multi-disciplinary fashion, that is a fairly good  
7 number of checks and multi-disciplinary involvement so  
8 that other programs are indeed --

9 THE CHAIRMAN: Can't you say that very  
10 thing of the timber considerations as well?

11 MR. FLEET: I think there is --

12 THE CHAIRMAN: The multi-disciplinary has  
13 in fact been developed by the timber side at the  
14 district level or by the company, checked by the  
15 region, and now you are indicating that it still needs  
16 the main office check focusing on specifically the  
17 timber considerations as opposed to other resource  
18 considerations.

19 MR. FLEET: With respect to the timber  
20 side and why there might be three levels of review and  
21 approval; firstly, it is the main office Director of  
22 Timber Sales that approves the plan, so there is a  
23 requirement for there to be some amount of review by  
24 main office Timber Sales Branch in terms of delegation  
25 of the director's responsibility for approval.

1                   Secondly, with respect to wood supply  
2       versus perhaps adherence to other program objectives or  
3       policies; the wood supply analysis, if you would, is a  
4       complex analysis using a computer modeling and so forth  
5       and so that, in itself, might give rise to yet a third  
6       level of review.

7                   MR. MARTEL: But there is a problem. You  
8       look at wood province-wide because up to that level you  
9       are dealing either with the district or the region.  
10      When do you look at things province-wide with respect  
11      to wildlife to ensure that the guidelines are being  
12      applied uniformly in each area as you do with matters  
13      pertaining to wood and so on?

14                  The weakness seems to be that you check  
15      wood province-wide at main office, but you don't check  
16      other items and interests, at least they are not  
17      highlighted.

18                  MR. FLEET: I will just say one remark  
19      and I think Mr. McNicol would like to add something  
20      and; that is, that we are presenting this in this case  
21      because this is a timber management in a resource plan  
22      there are in fact other resource plans for the other  
23      resources that are prepared.

24                  And I will turn it over to John.

25                  THE CHAIRMAN: Yes, but where do they

1 interface? Where do they check the timber management  
2 plans?

3 That is I guess the problem we are  
4 having. We realize that there is other resource  
5 program checks, but where do they interface with what  
6 may occur in the timber management plan that may impact  
7 upon one of these other resource programs?

8 MR. McNICOL: I think the Board is aware  
9 of my appointment as co-ordinator for timber management  
10 guidelines. I am attached to the Assistant Deputy  
11 Minister's Office in northern Ontario with a reporting  
12 responsibility also to the Assistant Deputy Minister in  
13 southern Ontario.

14 My niche, if you will, in the review and  
15 approval process is relatively unique in that my basic  
16 responsibility is to ensure that the application of  
17 guidelines - and I am speaking here primarily of fish,  
18 moose and tourism, but not excluding other operational  
19 manuals or resource manuals - that their application  
20 through the timber management planning process across  
21 Ontario in the area of the undertaking is done in a  
22 consistent manner with regard to the approach and  
23 rationale for their application.

24 THE CHAIRMAN: So could you be  
25 characterized in effect as a main office check?



1                   MR. McNICOL: A surrogate, if you will,  
2                   for a main office check. The one advantage I guess I  
3                   can perceive with an attachment to Assistant Deputy  
4                   Ministers' Offices, both north and south, that you are  
5                   not, if you will, beholden to anybody.

6                   You are not attached to fish and  
7                   wildlife, you are not attached to timber management,  
8                   you are able to objectively look at how guidelines are  
9                   being applied and their impact on all resources, timber  
10                  plus fish and wildlife.

11                  THE CHAIRMAN: Well, should you,  
12                  therefore, Mr. McNicol be plugged into the process in a  
13                  special place?

14                  MR. McNICOL: In a formal manner, Mr.  
15                  Chairman?

16                  THE CHAIRMAN: That is what I mean, yes.

17                  MR. McNICOL: I am plugged in now. It  
18                  has not been -- this particular function has not been  
19                  recognized in a formal manner in terms of the way the  
20                  review process proceeds.

21                  I think, as you are aware, my appointment  
22                  is for a two-year term. Now, I would suggest at the  
23                  end of that two-year term there will be an assessment  
24                  as to whether this kind of function should be a  
25                  continuing function or not.

1                   MR. MARTEL: But will you be involved --  
2                   will you look at any timber management plans as part of  
3                   your review?

4                   MR. McNICOL: Oh yes, Mr. Martel.  
5                   Perhaps I can elaborate on how I carry out my job.

6                   MR. MARTEL: Right.

7                   MR. McNICOL: I interface primarily with  
8                   regional specialists; those would be either foresters,  
9                   biologists or planners, individuals that, through their  
10                  involvement with the timber management planning process  
11                  in their regions at the district level, have perceived  
12                  a problem or they suspect there may be a problem with  
13                  the way guidelines are being applied in that particular  
14                  plan.

15                  I am then brought in on a consultative  
16                  basis to assess whether, in the provincial perspective,  
17                  there is a problem with the way those guidelines are  
18                  being dealt with.

19                  I spoke yesterday in response to the  
20                  Chairman's question with regard to when this approval  
21                  function that I am also charged with would kick in and  
22                  I indicated at that time that it's important that this  
23                  consultation take place early in the process, because  
24                  if it takes place late; in other words, if it takes  
25                  place at the time the draft plan is actually presented

1 for review at the region, it can create some very  
2 significant problems with regard to getting that plan  
3 approved on time.

4 MR. FREIDIN: Q. Mr. McNicol, regarding  
5 formal involvement of people specializing in  
6 disciplines other than forestry in relation to the  
7 regional review and approval process, there is a  
8 statement on page 232 of the witness statement starting  
9 in the third line:

10 "The most important aspect of the  
11 regional review is the focus on issues  
12 having cross-district or cross-regional  
13 implications and in the coordination of  
14 resource management at the regional  
15 level. Some of the components of the  
16 regional review include an examination  
17 of.."

18 And I refer you to 4:

19 "Application of other use guidelines..."

20 Can you advise me: Is there any  
21 practice -- common practice in the Ministry at the  
22 regional level as to the involvement of people,  
23 specialists from disciplines other than forestry  
24 reviewing timber management plans?

25 MR. McNICOL: A. Oh, very much so. As I

1 say, there are regional planners that are involved in  
2 the review process, the regional biologist obviously,  
3 the regional forest management specialist, so there are  
4 a number of individuals at the regional level that  
5 become involved in the review of draft plans.

6 THE CHAIRMAN: I guess, Mr. Freidin, I  
7 think the Board recognizes that at the regional level  
8 there is that sort of regional check in terms of other  
9 disciplines. I think what the Board is commenting on  
10 is that there doesn't appear to be that same  
11 interdisciplinary, other than forestry concerns, check  
12 at the main office level.

13 And what you are indicating, Mr. McNicol,  
14 is that you are sort of performing a function that  
15 looks at guidelines on a province-wide basis in terms  
16 of the relationship to specifically timber management  
17 plans and other resource programs.

18 And all I think we are commenting on is  
19 it doesn't appear to be formalized in any way, it's a  
20 new role from what we gather that you have indicated  
21 your present role is and it may be assessed at two  
22 years down the road and may be formalized at that  
23 point. But it appears, looking at the main office  
24 review process that you are putting forward -- the  
25 Ministry is putting forward to the Board at this time



1       that the forestry side is well covered province-wide  
2       and that some of the other resources don't appear to be  
3       well covered province-wide.

4                   I suppose that is the only comment. That  
5       doesn't mean to say, Mr. Freidin, that they aren't  
6       covered at the other levels, at the district level, at  
7       the regional level; we are talking main office level.

8                   MR. MARTEL: And didn't Mr. McNicol's job  
9       arise - I am going back now some time - that they were  
10      having some problems with the moose guidelines and that  
11      it evolved out of that the type of work you are  
12      presently doing.

13                   I am not sure if it meets maybe the  
14      concerns we are expressing yet, maybe it's simply  
15      because it hasn't been formalized. But the birth of it  
16      was from the moose guidelines, there wasn't a check  
17      cross-province as we are doing with lumber.

18                   MR. McNICOL: I think you are incorrect  
19      in that, Mr. Martel, in that my responsibility is  
20      provincial in scope and it involves more than moose.

21                   MR. MARTEL: No, I am saying it started  
22      out though -- did it not start out when there were some  
23      differences with respect to the way the moose  
24      guidelines were going, some of the matters involved  
25      were not clear and I think that is where it germinated

1 from anyway and what it evolved into might be somewhat  
2 different, but wasn't that the thing that triggered it?

3 MR. McNICOL: You are correct in that  
4 assessment, yes.

5 MR. MARTEL: And then all -- I am taking  
6 it one step further, is that we are not applying it in  
7 a similar fashion province-wide as you would do with  
8 respect to timber. I think that is our concern that we  
9 are trying to express.

10 MR. McNICOL: I am sorry, Mr. Martel, I  
11 am still having a problem with that point because it is  
12 being applied in terms of the examination of the way  
13 guidelines are dealt with. In timber management plans  
14 across the province, it is being -- it is being dealt  
15 with through my job.

16 THE CHAIRMAN: Yes, but what we are  
17 saying is, it's not formalized in the process, that is  
18 all we are saying.

19 MR. FREIDIN: All right. And I  
20 understand the point you have made, Mr. Chairman. If I  
21 could just ask a question.

22 Q. Mr. McNicol, do you know whether this  
23 concern which arose regarding application of the Moose  
24 Habitat Guidelines was something which was observed or  
25 picked up at the regional, at main office or at the

1 district level?

2 MR. McNICOL: A. I would say that  
3 initially the problem was identified at the regional  
4 level and it has been incorporated, if you will, at the  
5 provincial level; in other words, that concern was  
6 presented to main office.

7 Q. Thank you. Okay.

8 THE CHAIRMAN: Sorry to wreck your  
9 examination, Mr. Fleet. Get you back on track here.

10 MR. FREIDIN: No.

11 Q. So if you want to get back on track,  
12 Mr. Fleet, I think this arose out of a reference to  
13 paragraph 4 on page 304. Was there any other -- don't  
14 let all the discussion scare you. Is there anything  
15 else that you would like to refer to?

16 MR. FLEET: A. Yes. Very briefly I  
17 suppose we can take a look at page 300, paragraph 2 and  
18 here simply it states that the main office plan  
19 reviewer will be designated at the time the plan  
20 preparation is initiated, that that individual can act  
21 as advisor to the planning team during production, and  
22 that many of the components of a draft timber  
23 management plan will be presented midway through the  
24 process, almost as they are written, if you would, for  
25 feedback from the main office reviewer.

1                   That would be to assist in identifying  
2   major problems, for example, that might come up that  
3   would cause a delay in the plan if they were only  
4   discovered upon submission of the draft timber  
5   management plan.

6                   Q.   Now, aside from the reasons that you  
7   have already -- or aside from the benefits that you  
8   have described of having a procedure and the three  
9   bulletins prepared, are there any other reasons that  
10   they are prepared?  You talked about the various roles,  
11   different knowledge, different levels, et cetera.  Are  
12   there any other reasons that those documents were  
13   prepared?

14                  A.   Yes.  If I could refer the Board to  
15   page 230 of 813A.  At the very bottom of that page it  
16   says:

17                         "The intent of the bulletins is to..."

18                         And there are four points there.  
19   Basically we prepared the bulletins to address those  
20   four points and that would be:  to reduce time  
21   consuming duplication of effort, ensure compliance with  
22   environmental assessment, ensure consistent application  
23   of the planning process and guidelines across regions  
24   and districts, and simply to ensure a thorough and  
25   effective review of draft timber management plans.



1                   So by the development of those bulletins  
2                   those are the things that we are hoping to achieve.

3                   Q.   Briefly how do you believe that those  
4                   documents will achieve those purposes?

5                   A.   I think those documents achieve those  
6                   purposes by clearly defining what is expected of each  
7                   of the reviewers at each of the different levels of  
8                   review.

9                   THE CHAIRMAN:   And what is the status of  
10                  the bulletins when they are finalized?   Is it going to  
11                  be a directive from a Deputy Ministry?   What is the  
12                  authority that they carry, what level?

13                  MR. FLEET:   They would be bulletins from  
14                  main office from the Director Timber Sales, I think  
15                  that is the authority, comes from the Director of  
16                  Timber Sales Branch.

17                  MR. FREIDIN:   Mr. Chairman, there was a  
18                  fairly lengthy answer either to an interrogatory or to  
19                  an undertaking that dealt specifically with that  
20                  subject, the difference between policies, procedures  
21                  and bulletins, from where they come, and what authority  
22                  they have.   I can advise you of what undertaking that  
23                  is, I am almost certain that we filed it.

24                  THE CHAIRMAN:   Very well.   I don't think  
25                  we have come across it yet.   I don't think it has been

1       filed with us; has it?

2                   MR. FREIDIN: I am not sure. I will  
3       check and I will advise.

4                   THE CHAIRMAN: Okay.

5                   MRS. KOVEN: Mr. Fleet, could you go over  
6       for me again the group of people at main office who do  
7       that third level of review. You mentioned that you  
8       were a specialist when you were at the main office. Is  
9       there a pool of people who do this work alone, or are  
10      people pooled from various groups?

11                  MR. FLEET: It is essentially but not  
12      always a single person function. When I was - I'm no  
13      longer in main office - but when I was there, I was one  
14      of four planning specialists or analysts that would be  
15      responsible for plan review at the main office level  
16      and those would be the four individuals.

17                  MRS. KOVEN: And did you report to the  
18      Director of Timber Sales?

19                  MR. FLEET: I reported to the Manager of  
20      Management Planning Section and that individual  
21      reported to the Director of Timber Sales.

22                  MRS. KOVEN: So there are four people?

23                  MR. FLEET: There -- at that time there  
24      are four, I am actually not sure how many there are at  
25      this point in time, I have left that group since.

1                   In addition to those individuals at main  
2   office reviewing the timber management plan,  
3   periodically there would also be a part of the plan  
4   reviewed by our Wood Allocation and Licensing Section  
5   and that section also was part of the Timber Sales  
6   Branch reporting to the Director of Timber Sales, and  
7   that would be for the plans that were -- had perhaps a  
8   more complex licensing system, if you will, than just a  
9   single FMA.

10                   MRS. KOVEN: So it is a much more  
11   specialized review?

12                   MR. FLEET: More focused, yes.

13                   MRS. KOVEN: Now, the specialists --  
14   specialists, analysts or planners who do this role at  
15   the main office, do they come from the district level;  
16   are they foresters, or are they people who come in from  
17   other parts of the Ministry?

18                   MR. FLEET: They would be working now  
19   full-time at main office. They are foresters. In my  
20   case, I arrived at main office from a district. In  
21   other cases they arrive from regions, and it would be  
22   possible too that they might have transferred from  
23   another section within main office.

24                   MRS. KOVEN: Mm-hmm. Are there  
25   credibility problems in dealing with the regions or the

1 districts in terms of the districts and regions feeling  
2 very much that they are closer to the subject and that  
3 the main office has a more remote picture of what is  
4 going on?

5 MR. FLEET: None that I detected or that  
6 were expressed to me.

7 MR. FREIDIN: Q. Mr. Fleet, when you  
8 referred to page 230, you indicated that one of the  
9 intents of the bulletin was to reduce time consuming  
10 duplication of review effort, and both you and Mr.  
11 McNicol indicated the desire to, if you will, avoid  
12 situations where the plan might not get prepared in  
13 accordance with the schedule.

14 And just briefly, other than just not  
15 meeting the schedule which is there, what are the  
16 consequences of being late that you are trying to  
17 avoid?

18 MR. FLEET: A. Yes. If you were late in  
19 the approval of your timber management plan, I guess  
20 there theoretically are two consequences. The most  
21 realistic consequence of course would be that you would  
22 be required to prepare a contingency plan - which is  
23 going to be the subject of some later evidence - so  
24 that you would indeed then be able to continue to  
25 conduct operations upon the arrival of April 1st which



1 is when your timber management plan would have normally  
2 been scheduled for final approval.

3 So if you were late in that approval, you  
4 would need a contingency plan so you can conduct  
5 operation under some authority -- some planning  
6 authority.

7 And I guess the other consequence could  
8 be the cessation of operations on April 1st because  
9 there was no approved timber management plan or  
10 planning document in place.

11 THE CHAIRMAN: Are there any - I don't  
12 know if you can answer this - are there any contractual  
13 problems that arise out of the forest management  
14 agreements vis-a-vis the companies where they have  
15 submitted the plans on time, prepared them, et cetera,  
16 but the Ministry is late in its review, where the  
17 review process gets bogged down for reasons other than  
18 those caused by a company and, therefore, it says at  
19 the end of the day: How do we carry on, we haven't got  
20 an approved plan, we did everything that was required  
21 of us, you didn't follow through on your end. What  
22 happens in a case like that to the company?

23 MR. FREIDIN: I'm not sure that this  
24 witness, Mr. Chairman, can answer from a legal point of  
25 view. I have no hesitation in having him answer what

1 his understanding is as to practice, but I don't think  
2 that he can answer the legal aspect of the question.

3 THE CHAIRMAN: I am not asking him  
4 whether, you know, they could sue for damages or stuff  
5 like that. But, essentially, what happens in a case  
6 like that; is there an attempt made to ensure that the  
7 company can carry on with activities in some way so  
8 that it can all get sorted out without a cessation of  
9 operations?

10 MR. FLEET: I am not going to suggest  
11 that by any means we are squeaky clean, but I am not  
12 familiar with any examples -- personally familiar with  
13 any examples where the delay in the approval of a plan  
14 is largely the fault of the Ministry of Natural  
15 Resources.

16 But if - I am suggesting it's perhaps  
17 hypothetical - if that were to happen, there would be  
18 perhaps the development of a contingency plan to allow  
19 the company to conduct operations prior to receiving  
20 formal approval of their larger timber management plan.

21 MR. FREIDIN: Q. If there was going to  
22 be a problem that was going to cause a delay in  
23 actually getting the plan approved by April 1st, would  
24 the possibility of that be recognized, would it usually  
25 be recognized at a time when a contingency plan could

1 in fact be started or the preparation of one could be  
2 started?

3 MR. FLEET: A. Yes, that's correct.

4 Usually if -- my experience with plan approval that has  
5 been delayed is usually due to an issue which is fairly  
6 large in nature, if you would, and identified  
7 reasonably early on to allow a company to prepare a  
8 contingency plan or, in fact, The crown to prepare a  
9 contingency plan, if it were a Crown plan, but there is  
10 usually -- my experience is that there is usually  
11 enough lead time to prepare a contingency plan.

12 MR. FREIDIN: And that will be -- the  
13 issue of contingency plans will be addressed by --  
14 well, will be addressed in Document 4.

15 THE CHAIRMAN: There was a second thing  
16 you were going to get to, a second consequence of a  
17 plan being late. I think we got the first one.

18 MR. FLEET: The first consequence was of  
19 course that the person who wanted to conduct operations  
20 would be required to develop a contingency plan. I  
21 suggested that the second thing might be on April 1st  
22 operations would cease.

23 MR. FREIDIN: Q. That would be if you  
24 didn't get a contingency plan in place?

25 MR. FLEET: A. If you didn't have a plan

1 or a contingency plan in place.

2 Q. And could you just comment on whether  
3 any difficulties are being encountered in getting plans  
4 approved within the expected time frames?

5 MR. FLEET: A. Yes, Mr. Freidin, we --  
6 it's my experience with respect to plan review and  
7 approval that there are instances where, for whatever  
8 reason, we have not been able to get a plan approved on  
9 time by April -- or April 1st implementation. That  
10 isn't the case in all cases, but there are a number of  
11 cases where that has happened.

12 Q. And do you believe that the  
13 procedures and bulletins will address the problem --  
14 well, I guess your evidence indicates that the intent  
15 of the bulletins is in part to avoid or to get plans  
16 approved on time. Do you personally believe that that  
17 will be a result?

18 A. Yes, I think it will be, that the  
19 whole process of plan production and review as outlined  
20 in our -- in the Timber Management Planning Manual is  
21 relatively new to the Ministry of Natural Resources  
22 and, as we have described, as the plan production is  
23 evolutionary, there has been a bit of that too with  
24 respect to plan review.

25 One of the reasons why -- or one of the



1 things we have endeavoured to do, as I indicated, with  
2 respect to the development of those bulletins is to  
3 clearly identify roles at each of the levels, so to  
4 reduce unnecessary duplication in the review process  
5 and also clearly identify time frames and help us to  
6 meet those.

7 So in recognition perhaps of the  
8 comprehensiveness of the review process we've developed  
9 these bulletins in part to answer the time constraint  
10 part of plan review and approval.

11 Q. Now, we've touched on the question as  
12 to who actually reviews the plans at the various levels  
13 through some of the questioning from the Board. I  
14 think we probably centered primarily on main office as  
15 to who actually does the -- gets involved in the  
16 reviews. Could you comment on who gets involved in a  
17 review in plans at the district level?

18 A. Yes. At the district level generally  
19 the review of the timber management plan is conducted  
20 by the planning team that produced the plan.

21 Q. Can you tell me why the same people  
22 that prepared the plan also review the plan that they  
23 developed?

24 A. There are a number of reasons why the  
25 same people that prepared the plan can and do review

1 the plan. The first and perhaps -- well, the first  
2 reason would be that a plan, even though there is a  
3 multi-disciplinary planning team, is generally authored  
4 by a single individual, and that would be the forester.

5 Q. So the plan is authored by the  
6 forester but prepared by a planning team?

7 A. The input of the planning team  
8 through planning team meetings and so forth is  
9 multi-disciplinary. There would be biologists and  
10 planners and so forth on that team.

11 One of the reasons why the same people  
12 that in essence were the planning team are now the  
13 review team would be so that they could verify the  
14 decisions which they as a team made are in fact  
15 properly presented in the timber management plan as  
16 authored by that forester.

17 So I guess what I'm saying is that as  
18 opposed to them -- as opposed to them checking the  
19 validity or reasonableness of the decisions that they  
20 have made, they are checking to ensure that - that is  
21 assumed or they wouldn't have made those decisions from  
22 their point of view - they are checking to make sure  
23 that the decisions which they made are indeed then  
24 included in the plan.

25 Another point would be that the district

1 planning team wants to verify that the public comment  
2 and input received during the production of that plan  
3 is indeed properly incorporated into the plan as agreed  
4 by the planning team as well.

5 The third reason is the planning team, of  
6 course, would be familiar with timber management plan  
7 document requirements and EA process requirements and  
8 they would simply check to make sure those had been  
9 met.

10 And the fourth reason would be they have  
11 that local knowledge of the district and they want to  
12 make sure again that that plan is consistent with other  
13 local resource management plans.

14 Q. Now, the regional level, who gets  
15 involved in reviewing timber management plans at the  
16 region?

17 A. Okay. Once again, the review of a  
18 timber management plan at the region is  
19 multi-disciplinary and the people that would conduct  
20 that multi-disciplinary review would be -- there would  
21 be representation from forestry by the regional  
22 forestry specialist, there would be representation from  
23 fish and wildlife by either a fisheries biologist or a  
24 wildlife biologist.

25 THE CHAIRMAN: Is that and/or?

1 MR. FLEET: It would depend on--

2 THE CHAIRMAN: The region?

3 MR. FLEET: --the region. Some don't  
4 have both I think. There would be representation at  
5 the regional level also from lands or planning -- I  
6 guess properly planning discipline.

7 MR. FREIDIN: Q. I think in somebody's  
8 earlier evidence - I think it was Mr. Kennedy's - there  
9 was reference to the -- yes, it was Mr. Kennedy on  
10 September the 13th, he made reference to the terms of  
11 reference for the Wabigoon Management Unit I think  
12 which starts at page 241.

13 And I would ask you to advise, Mr. Fleet,  
14 whether there is any reference in those terms of  
15 reference to the regional review or the involvement of  
16 people at the region in timber management plan review?

17 MR. FLEET: A. If we could turn to page  
18 245 of 813A, these are the terms of reference for the  
19 Wabigoon Timber Management Plan. At the very top it  
20 says: 4. Plan Reviewers, and if you go down midway  
21 through the page it identifies regional reviewers and  
22 the disciplines and then there is a brief outline of  
23 their roles.

24 And this is indicated in the terms of  
25 reference and that would respond to that procedure



1 point that I identified about clearly identifying early  
2 in the process who the reviewers or advisors to the  
3 team might be.

4 And, in this case, we have Mr. Mills from  
5 Timber, Mr. Parkinson from Planning, Mr. Croskery from  
6 Fish and Wildlife and Mr. Ward from Fish and Wildlife,  
7 and in fact under Regional they have an individual from  
8 main office there and perhaps it would be more proper  
9 if that was identified as main office, Mr. Waldram, FMA  
10 Coordinator, Timber Sales Branch. And I think it  
11 would -- that type of identification will occur in  
12 terms of reference for each plan prepared.

13 Q. In terms of main office, dealing with  
14 the question of who gets involved in reviewing the  
15 plan, have you basically covered that subject?

16 A. I think we have, yes.

17 Q. Okay. Now, in terms of the specific  
18 roles of those reviewers, we looked at in the procedure  
19 the roles in terms of the paper trail, as you put it  
20 when we looked at the procedure.

21 Now that we have identified who gets  
22 involved at these various levels of the Ministry, can  
23 you advise what the roles of the reviewers are at each  
24 of the three administrative levels, again attempting  
25 not to repeat evidence that we have already covered?

1                   A. Yes. This can be found on 813A on  
2     page 231 under the title: District Review. Very  
3     briefly, there are three components in terms of the  
4     role of the district reviewer and those would be: To  
5     make sure that the plan would be checked and verified  
6     for completeness; the plan would be checked and  
7     verified for accuracy; and the plan would be checked  
8     and verified for consistency.

9                   And particularly with respect to  
10    consistency at the district level, besides addressing  
11    consistency in terms of the linkages within the tables  
12    in the plan, they are also checking consistency with  
13    respect to other resource management plans in the  
14    district.

15                  Q. In relation to that particular  
16    matter, I'd like to refer you to some evidence which  
17    took place in Panel 14. I don't have the page  
18    reference but I can advise that it is in Volume 133,  
19    and I just want to read to you a question which was  
20    actually asked by the Chairman and follow up with a  
21    question.

22                  It was a question that you asked, Mr.  
23    Chairman, of Mr. Pyzer in terms of the relationship  
24    between timber management plans and fisheries  
25    management plans, and you asked whether - and I quote:

1 "Would it be open for debate in a  
2 timber management plan as to whether or  
3 not there should be road access to  
4 various lakes when the fish management  
5 plan preceding it already determined that  
6 there should?"

7 And that was followed by some discussion  
8 about whether one plan had precedence over the other  
9 for any number of reasons.

10 And, Mr. Fleet, I would like to you to  
11 comment, if you will, on the question or perhaps answer  
12 the question asked by the Chairman as to what would  
13 happen in those circumstances?

14 A. I guess I'd like to answer that  
15 question, if I could, by way of my own experience now  
16 in the district, and I have moved from main office to a  
17 district.

18 First of all, it largely -- it wouldn't  
19 be described as a question of precedence. The resource  
20 management plans, as you know, are done under the  
21 umbrella of the DLUG, the District Land Use Guidelines.  
22 My experience is that they are all generally done as  
23 multi-disciplinary, if you will, planning team  
24 processes or plans.

25 And my experience is: For example,

1       within the Timmins District where I currently work, I,  
2       as the forest management supervisor, sit -- I'm sitting  
3       this summer on three cot -- lake or cottage development  
4       plans and my role is to indeed address the question of  
5       consistency or coordination of those lake plans with  
6       the timber management plan and we are addressing, for  
7       example, questions of: Is there the opportunity to  
8       coordinate access towards those lakes so as to reduce  
9       the cost of developing roads to those lakes just as a  
10      cottaging initiative, as one part of the  
11      multi-disciplinary input.

12                   And the second part, of course, would be  
13      to make sure that if we do do that as a coordinated  
14      effort that the cottagers who would derive the  
15      benefits, if you would, of a logging road clearly  
16      understand that there will indeed be logging trucks on  
17      their cottaging road and there will in fact be the  
18      forest management activities occurring in their  
19      vicinity.

20                   So that is one example of how it is a --  
21      they are multi-disciplinary and there is coordination.  
22      And I guess another example within that district would  
23      be, one of my unit foresters sits on a park management  
24      plan that is being developed in the district and the  
25      park is wholly within the boundaries of his management



1 unit and he provides that same kind of  
2 multi-disciplinary input for another resource  
3 management plan.

4 Q. And are you aware whether the  
5 document that was referred to in Panel 1, the Framework  
6 for Resource Management Planning, addresses this issue  
7 as to whether multi-disciplinary planning teams will be  
8 used in the development of forest resource management  
9 plans?

10 A. I believe it does.

11 Q. If we might then move to the region,  
12 and I think I had already referred -- I referred Mr.  
13 McNicol to page 232 of Exhibit 831A and the seven items  
14 which are listed which are identified as having I  
15 guess -- or being the focus or the most important  
16 aspects of regional review. I think -- is there a  
17 coordination role played at the regional level as well  
18 as at the district level?

19 A. Yes. In fact, that -- the  
20 coordination role, if you would, across districts  
21 and/or regions is largely the role of the regional  
22 level of the review.

23 Q. Now, you have listed there some  
24 components of a regional review which could have  
25 cross-district or cross-regional implications. Could

1       you in a very brief way just provide an example as to  
2       how each of those items could have those kinds of  
3       implications?

4                   A. Yes. If I could take you through  
5       most of those very briefly. An example of wood supply  
6       strategies and proposals in terms of coordination at  
7       the regional review level might be, for example, there  
8       is an availability of saw logs on a management unit in  
9       one district and there is a management plan being  
10      written and there is a management unit in an adjacent  
11      district where there might be a shortfall of saw logs,  
12      so part of the regional coordinating role would be to  
13      ensure that those plans address that wood supply  
14      problem and there was an element of coordination so  
15      that the saw logs went where they were needed.

16                   With respect to wood supply directives at  
17      the regional level and their coordination, I would like  
18      to take you to an example I'm familiar with. In the  
19      Timmins District I have a single management unit, the  
20      Timmins Forest, and you have seen a values map  
21      previously for that forest. On that particular  
22      management unit the wood by product class or species  
23      goes to four locations by largely regional directive.

24                   The veneer goes to Cochrane to the  
25      Normick Plywood Plant, the jack pine saw logs go to

1 Ostram southwest and out of the district to a lumber  
2 mill, the spruce pulp goes to Thorold near St.  
3 Catharines, and the lower grade poplar, that poplar  
4 which wasn't veneer quality poplar going to Normick,  
5 goes to Grant Waferboard and they make that particle  
6 board out of it. And that is an example of  
7 coordination of wood and wood supply strategies which  
8 are regional in nature.

9 The next point is nursery stock demands.  
10 Very simply, from a regional point of view, the region  
11 would coordinate the allocation of nursery stock and  
12 they would have an idea of priorities with respect to  
13 what units do need a limited amount of -- the limited  
14 amount of nursery stock and they would be able to set  
15 priorities and, in that sense, coordinate regionally.

16 Q. Now, just in relation to the fourth  
17 one, Mr. McNicol, I was going to go to you on this, and  
18 you may very well have said everything you would like  
19 to. Have you said everything you would like to on  
20 this, or is there something you want to add?

21 MR. McNICOL: A. You should never give a  
22 biologist that kind of opportunity, Mr. Freidin, but I  
23 think I have said all I have to say.

24 Q. Well, continue, Mr. Fleet.

25 MR. FLEET: A. Okay. The fifth point on

1 232 would be road use management strategies. In terms  
2 of regional coordination it might be that a -- their  
3 use management strategy for one district may suit the  
4 purposes of that district fine, but if that road  
5 traverses into an adjacent district and a different  
6 management unit there may be the need for regional  
7 coordination of that road.

8 Additionally, the region having reviewed  
9 several plans and particularly -- and probably the  
10 adjacent plan or adjacent plans, they may be able to  
11 minimize the development of unnecessary primary access  
12 through the coordination of the development of that  
13 access. They see a bigger picture.

14 Q. You indicated that that would occur  
15 where a road went between two districts. Would that  
16 also occur or that function be performed when a road  
17 was going to pass through two regions?

18 A. As well, yes, that could happen, does  
19 happen.

20 Application of the planning process and  
21 requirements of a Class EA and the TMPM with respect  
22 again to the regional coordinating role. The  
23 assumption of the region by their examination of many  
24 plans has a bigger picture and they are more familiar  
25 with what current practice or requirements are, or they



1 can be more familiar and provide that coordinating  
2 function.

3 MR. FREIDIN: And as we have indicated  
4 before, Mr. Chairman, the reference to the Class EA is  
5 to the process as set out in Exhibit No. 4 which is  
6 partly the subject matter of the hearing.

7 MR. FLEET: And the final point,  
8 Unresolved and Outstanding Issues, I would perhaps  
9 demonstrate by an example. On the Caribou East  
10 Management Unit that I was the unit forester for a few  
11 years back, in the development of the timber management  
12 plan for that particular unit, in the middle of that  
13 unit there was a park and with respect to examination  
14 of the eligibility maps for that unit they indicated  
15 that there was a high degree of eligible wood near that  
16 particular park.

17 There was a certain amount of discussion  
18 with respect to: Do we go near -- there was no park  
19 management plan in place with respect to the  
20 outstanding or unresolved issues and we had to answer  
21 the question: Do you allocate wood near that park -  
22 which was one of the newly created parks - in the  
23 absence of a timber management plan -- in the absence  
24 of a park management plan, do you allocate near that  
25 park or not, and thereby possibly reduce your options

1 with respect to management of that park.

2 It was also an issue which had  
3 cross-regional considerations because it was -- that  
4 management was half in one region in one district and  
5 half in another region in another district.

6 The answer to that question was solved in  
7 fact regionally with respect to what we could do in  
8 terms of allocating timber near that particular park  
9 and, in addition, there was a commitment made to  
10 develop a park management plan so that there was a  
11 coordination at the regional level of two planning  
12 disciplines, if you would, for an outstanding issue.

13 Q. Now, in terms of -- moving to main  
14 office, have you covered to the degree that you wish  
15 the role of the reviewers at main office?

16 A. I think really that we have in the  
17 discussion that we had.

18 Q. You indicated earlier in your  
19 evidence that plan reviewers from the regional and main  
20 office level do get involved in the process other than  
21 as formal reviewers, and did you actually become  
22 involved in that way when you are at main office?

23 A. Yes. As a main office reviewer I did  
24 get involved during plan production as my role as a  
25 plan reviewer. And the example that I will give you is

1 the Lac Seul Timber Management Plan that we have used  
2 as our demonstration of the review and approval process  
3 and, for that particular plan, I attended a few of the  
4 planning team meetings, though not all of them.

5 Q. And --

6 A. In addition, I also received some of  
7 the parts of the plan as they were developed.

8 Q. Mr. Multamaki, when you were  
9 preparing the Red Lake Timber Management Plan did you  
10 have any contact or interaction with people at the  
11 regional level, regional advisors who may have been  
12 involved as well in the review of your plan?

13 MR. MULTAMAKI: A. Yes. In fact, there  
14 was a substantial amount of contact between the various  
15 regional specialists, particularly the forestry  
16 specialist, wildlife specialist -- or to a more limited  
17 extent the wildlife specialist and, again, particularly  
18 the planning specialist, the regional planning  
19 specialist. I think it would be fair to say that I  
20 wore out my welcome with the region on a number of  
21 occasions.

22 Q. Mr. Fleet, are head office or  
23 regional people involved in timber management planning  
24 training?

25 MR. FLEET: A. Yes, I guess that could

1 be described too as an additional form of early  
2 involvement. As a main office reviewer I was one of  
3 the presenters or speakers for the provincial training  
4 session for the planning team members that were about  
5 to embark on the development of a timber management  
6 plan. So, in that sense, I had very early involvement  
7 in plan production review and subsequently approval.

8 And I guess one other example of early  
9 involvement would be that it seems to be common  
10 practice now, particularly for regional staff and when  
11 possible for main office staff, to in fact attend the  
12 information centre that was spoken to this morning.

13 It is not always possible for main office  
14 staff to attend the information centre just simply  
15 because of the fact that there are so many plans being  
16 prepared across the province, if you would, that the  
17 main office might have involvement with. There is the  
18 probability that some information centres can occur  
19 either at the same time on the same day or very close  
20 and just travel arrangements wouldn't permit them to  
21 get to all of them.

22 Q. Are there any particular  
23 circumstances which come to mind that might cause  
24 someone from the regional or the main office level to  
25 decide that it would be useful to attend either a



1 public information centre or to get involved with the  
2 planning -- actual plan preparation?

3 A. Yes. I think the answer is that the  
4 plan reviewers, be they regional or main office, would  
5 always get involved early. Just the preparation of a  
6 plan is the cause to get involved early, if you would.

7 The degree of involvement though might be  
8 assessed on case -- would be assessed on a case-by-case  
9 basis and I guess, if you would, examples of varying  
10 degrees of involvement would be: If a district or a  
11 planning team was going through the process for the  
12 very first time - and then some still are - there would  
13 be a greater -- I would think there would be a greater  
14 degree of involvement. That's my experience as the  
15 main office reviewer.

16 In the other example where you would  
17 perhaps identify the need for early and more  
18 involvement, if you would, would be if you knew that it  
19 was a particularly complex management unit or that  
20 there were some particularly complex issues that might  
21 have to be addressed and that it would be prudent to be  
22 familiar with.

23 Q. Could I refer you back to page 155 of  
24 Exhibit 4, please. That's the -- actually I don't  
25 think we have to do that. Rather than do that, I would

1 refer back to part of Exhibit 853, 853B, where you have  
2 taken part of the figure from the Environmental  
3 Assessment Document.

4 Am I correct that what we have really  
5 been talking about so far is the part noted on the  
6 right-hand side, MNR Review of Draft Timber Management  
7 Plan?

8 A. Yes, and what we have covered so far  
9 would be the MNR review up to now, what would be public  
10 notice.

11 Q. Okay. What actually is the product  
12 of the MNR review? What is the product of the MNR  
13 review of the draft timber management plan?

14 A. If I could -- if you are already  
15 looking at 853B, what the product is is a preliminary  
16 list of required alterations to the submitted draft  
17 timber management plan and that preliminary list is  
18 both multi-disciplinary from the point of view of the  
19 district and regional review and it is three  
20 administrative levels of review as well: district,  
21 region and main office.

22 Q. Do we have a reference or example of  
23 such a list in the witness statement?

24 A. Yes. We have an example of a  
25 preliminary list of required alterations to the Lac

1       Seul Timber Management Plan and that would be Exhibit  
2       813A, pages 353 to 418.

3                   Q.   So it starts off with a letter from  
4       the Director of Timber Sales to Mr. Auld who is with  
5       the company whose plan had been reviewed; is that  
6       correct?

7                   A.   That is correct.   What we have here  
8       is the letter from the Director of Timber Sales  
9       indicating that the attached is the preliminary list of  
10      required alterations.

11                  Q.   And I am wondering -- well, I was  
12      wanting you to address the sort of matters that get  
13      addressed in a preliminary list of alterations.   Could  
14      you address that by perhaps just highlighting certain  
15      portions in a way similar that you dealt with the other  
16      document.

17                  A.   I think I could do that.   There are  
18      perhaps 40 pages here of required alterations and maybe  
19      if I -- I have picked out five or six references which  
20      would give the Board a sense of the range of issues  
21      that might have to be addressed resulting from the  
22      Ministry of Natural Resource's review of the plan.

23                  This particular review has a four- or  
24      five-page preamble of what were described as major  
25      issues, followed -- starting at page 359 with a, if you

1 will, page-by-page, clause-by-clause list of required  
2 alterations to the submitted draft timber management  
3 plan.

4 If we could start with page 378, and on  
5 the left-hand side the paragraph which is titled, if  
6 you will, logging costs, this particular alteration  
7 addresses a difficulty described in the timber  
8 management plan and outlines two possible actions that  
9 the company would be required to pursue in order to  
10 obtain approval of the timber management plan.

11 And those actions would be -- well, first  
12 of all, the problem of course is, in this particular  
13 case, is that there is a certain amount of defect and a  
14 difficulty with logging costs identified in the plan.  
15 The company has been addressed to either do one or two  
16 things in there, and the bottom three lines of that  
17 paragraph:

18 "1. show a rigid schedule under which  
19 the company will harvest the old wood; or  
20 2. if the wood can't be harvested, then  
21 it should be reclassified in the FRI and  
22 the reclassification can be done through  
23 the OWOSFOP model by identifying an age  
24 of death."

25 So in essence what happened here was that



1 the company had identified some problems with defect in  
2 the oldest wood with respect to its suitability for saw  
3 logs, yet they had calculated their MAD using that  
4 oldest wood and then they had proceeded to allocate and  
5 not necessarily allocate strictly in accordance to  
6 oldest first, but really what they had done is they  
7 allocated everything a hundred years and less.

8 The older wood contributed to the  
9 development of that calculation so, in essence, what  
10 they were doing through the submission of this draft  
11 plan proposal would be to be overharvesting the 100  
12 plus -- 100 and under age saw log material and they  
13 were told that they had to do one or two things:  
14 either revise the plan and have a rigid schedule to  
15 harvest the old wood, or eliminate the hundred year and  
16 older wood from the land base that they were going to  
17 use to calculate their maximum allowable depletion  
18 calculation.

19 Q. You had a number of other references  
20 you wanted to make?

21 A. Yes, if I would. I am trying to give  
22 you a range here, so that would be a long-term and a  
23 wood supply example of a required alteration.

24 On page 387 at the very bottom Donch  
25 Lake, we are now dealing with an access required

1 alteration, if you would, and very simply it says here:

2 "The roads have not been labeled on the  
3 map. In the absence of those labels  
4 there seemed to be two roads on the map  
5 that fit the description. The map must  
6 be clarified and a strategy must be  
7 presented for the second road shown on  
8 the map."

9 Page 372 --

10 Q. 372?

11 A. 372, on the left-hand side, what is  
12 identified as paragraph 2, this would be an example in  
13 my mind of compliance with EA and timber management  
14 plan requirements, and it reads:

15 "Reference to ad hoc planning is  
16 inaccurate."

17 There was a reference in the plan to ad  
18 hoc planning, if you would. MNR has numerous  
19 guidelines and other approved plans, policies and  
20 procedures that are being followed, so forth and so on,  
21 to indicate that indeed we don't do ad hoc planning and  
22 we wouldn't want to suggest that in a final and  
23 approved timber management plan.

24 On page 359, we will do this one quickly.  
25 This is just simply an example where the Ministry is

1 concerned with grammar and spelling, if you would. At  
2 the very top the required alteration titled: Title  
3 Page, and there are four points there. And they are  
4 just simply some inaccuracies in spelling, omission of  
5 names and so forth.

6 So I guess the point we are making here  
7 is that it is a fairly thorough review, even with  
8 respect to grammar, to some degree spelling.

9 On page 384 at the very top on the  
10 left-hand side labeled page 129 paragraph 4, the three  
11 paragraphs really address the coordination between  
12 management units and the relationship between the  
13 supply of wood to a mill from more than one management  
14 unit.

15 And so it identifies that, in this case,  
16 the district has looked at the supply of wood  
17 prescribed in this timber management plan and the  
18 supply of wood in another management unit in their  
19 district. They have looked at the total needs  
20 identified for the mill and they have said that in  
21 terms of what you presented so far something doesn't  
22 jive and it must be addressed.

23 And if we could go finally then as a last  
24 example to page 392, and this would be an area of  
25 concern example. The very bottom labeled: Specific

1 AOC, Burma Operating unit and really if we just look at  
2 the first bullet point. There are two individuals  
3 Marshall and Latendre:

4 "No contacts made with Marshall or  
5 Latendre. Major concern noted with creek  
6 crossing between the two lakes and Lac  
7 Seul. No mention of this in the  
8 prescription. Therefore, no crossings  
9 of creeks between the two lakes...are  
10 permitted."

11 This is an example of a case where MNR  
12 knows of some concerns by a client and they have not,  
13 for some reason, at the submission of draft plan stage  
14 been addressed or made it into the timber management  
15 plan.

16 THE CHAIRMAN: That type of comment, does  
17 that imply that should they make contact with these two  
18 people and reach some kind of agreement that crossings  
19 would then be permitted?

20 MR. FLEET: Yeah. That comment is  
21 perhaps a little terse, but that would be the case.

22 MR. FREIDIN: Q. Had a prescription been  
23 developed in this case in the absence of contact or  
24 were you --

25 MR. FLEET: A. I believe an allocation



1 and a road crossing had been proposed in a draft timber  
2 management plan and I think what they are saying is if  
3 there was a prescription, it wasn't a suitable  
4 prescription yet because there had not been the proper  
5 dialogue with the concerned stakeholders.

6 MR. MARTEL: Can I ask a question? Based  
7 on this, are most plans -- they get to review. As I  
8 read this I thought there was a lot of comment. Are we  
9 going to get -- are they going to be developed better  
10 in the future so that you reduce, as people get more  
11 familiar with the process? Was that part of the  
12 problem here, or...

13 MR. FLEET: This is an example I would  
14 say of the high end of the range with respect to the  
15 amount of changes required as a result of the Ministry  
16 of Natural Resources' review and it is indeed our hope  
17 that they will get better too as we progress and  
18 evolve.

19 MR. FREIDIN: Q. Mr. Fleet, if I could  
20 refer you to Exhibit 853A, that was the very first  
21 overhead that you put up, and could you advise whether,  
22 in your view, the review of the -- or the preliminary  
23 list of required alterations for the draft plan that we  
24 have just reviewed demonstrates any of the bullet  
25 points that appear on that particular exhibit?

1 MR. FLEET: A. I think what we have  
2 taken you through so far this morning demonstrates all  
3 of the bullet points, except the third from the bottom,  
4 formal opportunity for input in public review, because  
5 we haven't got to that stage of the review process yet,  
6 but I think it demonstrates all the rest of those.

7 Q. What does MNR do with the preliminary  
8 list of required alterations?

9 A. Okay. There are two things that are  
10 done with the preliminary list of required alterations.  
11 That list of required alterations is presented to the  
12 plan author and, in addition to presenting that list to  
13 the plan author, the list is also made available at the  
14 next part of the review process, the public review.

15 THE CHAIRMAN: Excuse us.

16 ---Discussion off the record

17 MR. FLEET: During the -- toward the  
18 latter stages of the MNR review it is not uncommon that  
19 the Ministry would meet with the plan author in the  
20 case of a company plan or discuss with the plan author  
21 in the case of A crown plan many of the required  
22 alterations.

23 MR. FREIDIN: Q. Are you talking about  
24 near the end of the review of the draft plan?

25 MR. FLEET: A. Yeah, really during the

1 review of the draft plan and there is a numbers of  
2 reasons for that. One is just simply, in certain cases  
3 the reviewers may need to seek clarification from the  
4 author in terms of they may think there is a required  
5 change but, upon seeking some clarification, it then  
6 becomes more understandable to them and so indeed the  
7 reviewers could be wrong and the author could be right.

8 So there is a dialogue that can go back  
9 and forth, that can occur the 60-day MNR review. It  
10 also affords the author the opportunity to start to  
11 incorporate some of those changes while the MNR review  
12 is ongoing, so that the plan author and the Ministry  
13 might be able to present a reduced list of required  
14 alterations to the public at the 30-day public review  
15 of the draft timber management plan.

16 Q. And what is the plan author expected  
17 to do with the preliminary list?

18 A. The plan author is expected to start  
19 incorporating the changes as described in that  
20 preliminary list of required alterations into the draft  
21 plan at a stage in the process.

22 Q. Now, what is the next step of the  
23 review and approval process?

24 A. Okay. Referring back to that initial  
25 overhead -- or sorry, the Exhibit 853B, we are now at

1 the point on that exhibit called public notice. We  
2 have completed the MNR internal review of the draft  
3 timber management plan and there will now be a public  
4 notice.

5 Q. And, Mr. Bisschop, I understand that  
6 a notice -- there are notice provisions or requirements  
7 in relation to that public review?

8 THE CHAIRMAN: Mr. Freidin I think this  
9 might be an appropriate place to break for lunch, if we  
10 are going into a new area. Are you intending to go  
11 into the --

12 MR. FREIDIN: I am going to go into the  
13 public review, I am going to deal with the MNR final  
14 list of required alterations, and then I am going to  
15 wrap up.

16 If you wanted to continue, we could  
17 probably complete this subject or this part of Document  
18 3 by 12:30. But we are going for a full day, so I am  
19 content to break now.

20 THE CHAIRMAN: Well, why don't we break  
21 now and come back at 1:30.

22 MR. FREIDIN: Sure.

23 THE CHAIRMAN: Thank you.

24 ---Luncheon recess taken at 12:00 p.m.

25 ---On resuming at 1:40 p.m.



1 THE CHAIRMAN: Thank you. Be seated,  
2 please.

3 MR. FREIDIN: Could we have one more  
4 moment, please?

5 MS. BLASTORAH: Mr. Chairman, if I could  
6 just have a moment of the Board's time, I just wanted  
7 to confirm the date for the Panel 16 scoping session.

8 I think it was left tentatively the 4th  
9 or 5th of October but no definite date was set, as I  
10 recall, and I was wondering for our scheduling purposes  
11 anyway if it would be possible to finalize that?

12 THE CHAIRMAN: Which days of the week  
13 were that?

14 MS. BLASTORAH: Wednesday and Thursday.  
15 I was hoping that we could possibly set it the  
16 Wednesday morning which would be the 4th. I don't know  
17 whether the Board has --

18 THE CHAIRMAN: We are coming in the  
19 Monday night that week; is that correct?

20 MS. BLASTORAH: Yes, that's right, it's a  
21 normal hearing week under the new schedule.

22 THE CHAIRMAN: I don't know how it will  
23 be for evidence. Is there any problem with having it  
24 sort of after the days' worth of evidence?

25 MS. BLASTORAH: The only problem for us

1 is in terms of scheduling other meetings and so on. I  
2 don't know what the other parties have to say about  
3 that.

4 MR. CASSIDY: That's a problem for me  
5 scheduling other meetings as well. I was going to  
6 request on the 6th, the following day, if at all  
7 possible and anytime during that day would be  
8 convenient for me.

9 I'm sorry, the 5th of those two days I  
10 believe. Yes, Thursday the 5th.

11 THE CHAIRMAN: What about the Wednesday  
12 morning then, would that be a problem for you, Mr.  
13 Cassidy? Are you going to be around on the Wednesday?

14 MR. CASSIDY: That is a problem. I was  
15 planning on being in Toronto for that portion of the  
16 day. If I am the only counsel, I can make other  
17 arrangements, who have got difficulty with that date.

18 MS. BLASTORAH: Unfortunately, we have  
19 the opposite problem, we have meetings scheduled  
20 Wednesday and Thursday, so we were hoping that we could  
21 have it Wednesday morning because I believe Ms. Murphy  
22 wants to be here for this and I understand that she was  
23 hoping to leave for Toronto Wednesday as early as  
24 possible.

25 THE CHAIRMAN: What about the following

1 Tuesday?

2 MS. BLASTORAH: The concern I have there,  
3 Mr. Chairman, is it's getting closer and closer to the  
4 time we anticipate the panel will start and, of course,  
5 as you know, we try and - optimistic perhaps - but we--

6 THE CHAIRMAN: Dream on.

7 MS. BLASTORAH: --we do try and  
8 incorporate that material. Now, I am afraid I simply  
9 don't know what Ms. Murphy's plans are for that next  
10 week. I could get back to you.

11 THE CHAIRMAN: Well, Mr. Cassidy, will no  
12 one be from your team there that week?

13 MR. CASTRILLI: No, we will have someone  
14 here. I was -- we are doing some juggling, given the  
15 problem that Mr. Cosman indicated with our preparing  
16 our evidence and I was hopeful of being in Toronto to  
17 assist in that. But we will do some juggling, if  
18 necessary.

19 The Tuesday, by the way is excellent for  
20 us, Tuesday the 10th.

21 MS. BLASTORAH: Oh, the 10th. What about  
22 the 5th?

23 MR. CASSIDY: The new surge doesn't help  
24 me any. The 5th or the 10th is fine for us.

25 MS. SWENARCHUK: Mr. Chairman, the 10th

1 being the first hearing day after a long weekend, is it  
2 the Board's intention to start again at nine that day  
3 or not until one?

4 THE CHAIRMAN: No, that day we would be  
5 starting at one. Well, we would like to accommodate  
6 both parties obviously.

7 MR. CASTRILLI: Perhaps I can have a  
8 moment to discuss that with Ms. Blastorah and we can  
9 see if we can work it out.

10 THE CHAIRMAN: Okay, try and work it out,  
11 otherwise...

12 MS. BLASTORAH: Perhaps I could come back  
13 at the end of the day, Mr. Chairman, and address it  
14 again.

15 THE CHAIRMAN: Very well.

16 MS. BLASTORAH: Thank you.

17 THE CHAIRMAN: Okay.

18 MR. FREIDIN: I just wanted to blurt out  
19 there, Mr. Chairman, that it was music to my ears to  
20 hear about somebody else having trouble putting  
21 together evidence.

22 First, an administrative matter. You  
23 will notice Mr. Churcher is not here he; has taken ill.  
24 He was going to stay, he asked me whether he should  
25 stay, and ask for the Board's permission to leave but,



1 in the circumstances, I suggested that he take care of  
2 himself and that the Board wouldn't have any objection.

3 THE CHAIRMAN: No, that is fine.

4 MR. FREIDIN: Okay.

5 Q. Before we get onto the notice  
6 provisions and the public review of the draft plan with  
7 Mr. Bisschop, I would like to just go back to Mr. Fleet  
8 and ask: Why did you choose the Lac Seul plan and, in  
9 particular, the plan review and approval, to include in  
10 the evidence?

11 MR. FLEET: A. This morning I think I  
12 might have left the Board with the impression that that  
13 indeed reflected an average review and approval for a  
14 timber management plan.

15 In fact, what we did by selecting the  
16 review and approval for Lac Seul was select a review  
17 and approval that enabled us to demonstrate the points  
18 that I talked to this morning on the exhibit which was  
19 the overhead, 853A; those points such as a  
20 comprehensive process and so forth.

21 We didn't feel that we would be best able  
22 to demonstrate all those points with a review and  
23 approval of a timber management plan that came in, if  
24 you would, at the submission of the draft plan much  
25 closer to the mark and, therefore, would have had a

1 much smaller list of required alterations.

2 So there is two things. There is that.  
3 The other thing is that the Board might have the  
4 impression that the volume of required alterations as  
5 included in 813A is indeed a single list of required .  
6 alterations. There are three separate lists there; the  
7 preliminary district list, then the preliminary  
8 combined MNR list, and then the final list. So there  
9 is in fact three there, and they would be one third the  
10 total size.

11 Q. All right. Mr. Bisschop, we were  
12 going to speak to the Public Notice No. 3 which is --  
13 if we look at page 155, the public review of the draft  
14 timber management plan, identified on the left-hand  
15 side; is that correct?

16 MR. BISSCHOP: A. That's correct.

17 Q. And I understand that Exhibit 853D is  
18 going to be used to speak to this matter?

19 A. Yes. And that, Mr. Chairman, is a  
20 overview of what is presented on pages 161 through 163  
21 of the Class EA.

22 Q. What were the pages of that Class EA  
23 that those refer to?

24 A. Pages 161 through 163. Again, Mr.  
25 Chairman, I indicated yesterday that for each of the

1 public notices I am deliberately showing you the  
2 consistent formats so that we cover off those subjects  
3 and, as well, on the bottom of this overhead I have  
4 indicated what I would refer to as the purpose of this  
5 public notice: To invite parties who have been  
6 involved in the process to review the consideration of  
7 any comments they may have made earlier during  
8 planning, the decisions that have been made in the  
9 draft plan, and MNR's preliminary list of required  
10 alterations.

11 And I will speak very briefly because  
12 there is a certain amount of repetition in terms of all  
13 of these components of when, to whom, et cetera about  
14 this public notice.

15 After the MNR review of the draft plan  
16 has been completed, the district manager again will  
17 issue a third public notice that invites interested  
18 participants to review the draft plan, the  
19 supplementary documentation that accompanies the plan  
20 and MNR's preliminary list of required alterations.

21 That notice, first of all, goes to all  
22 respondents to the first two notices, a point, Mr.  
23 Chairman, which I believe you brought up yesterday in  
24 terms of the second notice that all other previous  
25 participants certainly would be informed. And, again,

1        what I would call I guess mandatory requirements of  
2        draft term and condition No. 3 would apply: notices to  
3        government agencies, interest groups, native  
4        communities, et cetera.

5                    There is meant to be, Mr. Chairman, at  
6        this point a certain amount of, I guess you could say,  
7        elimination from the mailing list in the sense that  
8        mailing lists are getting large at this point and we  
9        want to especially cover off providing notices to the  
10       participants to date, the formal notices of  
11       requirements to what I call mandatory, and interest  
12       groups, for example, that would have a continuing  
13       interest.

14                   Common practice is, however, that it  
15       seems that in most plans there is a continuation of  
16       still sending the notices to everybody on the mailing  
17       list.

18                   THE CHAIRMAN: Are you indicating that  
19       that is not a requirement?

20                   MR. BISSCHOP: I would view it as not  
21       being a requirement to continue sending the notices  
22       after the information centre to everyone.

23                   MR. FREIDIN: Q. And what are the  
24       circumstances in which there would not be a continuing  
25       requirement to mail notices or provide notices to



1 people who were on the original mailing list?

2 MR. BISSCHOP: A. For example, on the  
3 original mailing list there may have been several  
4 people who did not come forward at all with any  
5 indication of interest. What I would consider to be  
6 the cover --

7 THE CHAIRMAN: Does that necessarily  
8 indicate that they won't have an interest at a later  
9 stage?

10 MR. BISSCHOP: You are correct, it  
11 doesn't. What I would consider though to be the cover  
12 in terms of making sure that those people do get  
13 informed is the requirement for the general notice.

14 THE CHAIRMAN: The published notice?

15 MR. BISSCHOP: The public notice in the  
16 media.

17 THE CHAIRMAN: What is the downside of  
18 not sending it to the list, other than the  
19 administrative cost?

20 MR. BISSCHOP: I guess I can't think of  
21 anything other than the administrative cost at the  
22 moment.

23 THE CHAIRMAN: And in the great scheme of  
24 things, is that a very substantial cost?

25 MR. BISSCHOP: Perhaps you should direct

1       that question to someone with the experience here.

2                   MR. FLEET: It may not be just simply  
3       administrative cost but the fact that in a given  
4       location there may be more than one resource management  
5       plan ongoing, or a certain person may get more than one  
6       notice of one plan, and so if they are interested in  
7       only in one or if they are not interested at all, it's  
8       an effort, if you will, to pare down the amount of  
9       paper they are receiving just generally from the  
10      government, or an effort to reduce possible confusion  
11      if they are not interested.

12                  THE CHAIRMAN: Well, that is the problem  
13      I think the Board has. You are making a presumption  
14      they are not interested solely because they haven't  
15      responded up to that stage; in fact, they may want to  
16      wait until a later stage where things are defined more  
17      precisely before they get involved.

18                  I mean, there could be all kinds of  
19      reasons why they aren't responding to the first or  
20      second notices but may wish to respond to the third.

21                  MR. BISSCHOP: That is quite possible,  
22      Mr. Chairman. I guess to reiterate, my view is that  
23      it's not as though those people still wouldn't get  
24      notice. The assumption I guess is that the general  
25      public notice would cover off at least notifying those

1 individuals if they have a continuing interest when  
2 this opportunity is available to them.

3 As you will recall, in the earlier  
4 notices we would have informed those people of the  
5 future opportunities for public consultation, so they  
6 would know when the review would happen.

7 THE CHAIRMAN: You know, the Board hears  
8 what you are saying, but isn't it usually the  
9 presumption or the rationale with notice in a public  
10 context, that: Yes, you can put something in the media  
11 and the general public at large will likely, or at  
12 least are deemed to have seen it or the matter brought  
13 to their attention but, wherever possible, where you  
14 have the specific names and addresses of specific  
15 people, it's usually preferable and, in most processes,  
16 a requirement to serve them with written notice.

17 What the public notice in the media  
18 usually accomplishes is, it brings in those people for  
19 whom you don't have any direct information on, it's  
20 sort of a catch-all.

21 MR. BISSCHOP: Yes, I agree.

22 THE CHAIRMAN: As opposed to trying to  
23 exclude people specifically because they haven't  
24 responded. Anyways, I think the Board just raises it  
25 as a possible concern and --

1 MR. BISSCHOP: And we understand.

2 THE CHAIRMAN: Okay.

3 MR. FREIDIN: Q. And, Mr. Bisschop, I  
4 understand that there is an exception to that general  
5 practice? Is there not a provision that deals with  
6 native peoples' in terms of this continuing direct  
7 notice?

8 MR. BISSCHOP: A. And I refer to term  
9 and condition No. 3 covers in terms of my view on the  
10 mandatory notice requirements.

11 THE CHAIRMAN: Well, isn't that in  
12 itself - I am not saying it's discriminatory - but  
13 isn't that in itself another rationale for serving  
14 everybody, that you have the indication of who may be  
15 interested with written notice?

16 If you are going to make it a requirement  
17 to serve native communities with written notice  
18 notwithstanding they didn't respond to the first or  
19 second notice, why not do it for everybody?

20 MR. BISSCHOP: Yes, I can understand  
21 that.

22 MR. FREIDIN: Q. Mr. Kennedy or I guess  
23 Mr. Fleet who have worked in the north, do the native  
24 communities -- are many of the native communities -- do  
25 they tend to be remote as opposed to other people who



1 might be on the mailing list at the outset?

2 MR. KENNEDY: A. That certainly is the  
3 case in some districts. In my experience that is not  
4 the case, the native bands that I was able to deal with  
5 were very accessible.

6 We should also add one other piece of  
7 information, Mr. Chairman, so that you are not left  
8 with a misconception. In terms of when we are  
9 narrowing down the mailing list, we still continue to  
10 deal with those people that we have identified as being  
11 directly affected. So even though there may not be a  
12 response from an individual, if their area of interest  
13 or establishment, in the case of businesses, is in the  
14 direct vicinity of the proposed operations, they would  
15 be retained on the mailing list even if we have not  
16 heard from them.

17 The other people though that we have  
18 included on the mailing list that perhaps are a  
19 resource user at the opposite end of the management  
20 unit where operations are not being proposed, would be  
21 dropped from the mailing list.

22 I can also advise that we had  
23 representation at the Dryden Office in the time that I  
24 was there that people were frustrated with the level of  
25 notification that they were getting and were requesting

1 to be removed from the mailing list for the balance of  
2 that planning period with a caveat, that if something  
3 came in their direction that we would look after their  
4 interests by informing them once again. And also they  
5 were suggesting that if there were new plans being  
6 initiated, that they would like to be included on that  
7 new mailing list.

8 So there are a variety of situations out  
9 there, and by being able to identify through our own  
10 records and our own personal contacts with individuals,  
11 we are able to identify those individuals that we feel  
12 are directly affected by the proposed operations, carry  
13 them throughout the mailing list and drop those where  
14 people have not come forward and indicated a general  
15 interest in the activities being proposed.

16 MR. BISSCHOP: If I could continue then  
17 with the brief summary of the notice. The contents of  
18 the notice are very simply, again, that the draft plan  
19 is available for review at the MNR district office.

20 I've covered off the purpose of the  
21 notice through the comments on the bottom of the  
22 overhead and the Exhibit 853, page D.

23 The response period for the public notice  
24 is, again, 30 days, exactly the same as in the other  
25 notices and, again, any -- the notice, the mailing list

1 and all responses that are received would go into the  
2 Ministry's file for the timber management plan. Again,  
3 common practice is that MNR would respond.

4 To refer to the draft terms and  
5 conditions again, and I think maybe this time we should  
6 just very briefly deal with it. I will refer to term  
7 and condition 2(c) as being the condition that  
8 addresses this public notice requirement.

9 Public Consultation

10 2. (c) A Notice of Draft Plan Review shall be  
11 provided upon completion of the MNR internal  
review of the draft timber management plan.

12 This notice shall contain the following  
13 information:

- 14 (i) a statement that the draft timber  
management plan, accompanying  
15 supplementary documentation, and MNR's  
preliminary list of outstanding required  
16 alterations, are available for review;
- 17 (ii) the location, dates and times in which  
the draft timber management plan can be  
18 reviewed;
- 19 (iii) a statement that there is a period of 30  
days in which interested persons may  
20 review the draft timber management plan  
and provide comments; and
- 21 (iv) a statement that there is an opportunity  
22 to request a "bump-up" of the timber  
management plan or a component part of  
23 the timber management plan to individual  
environmental assessment status.

24  
25 MR. FREIDIN: Q. Thank you. Mr. Fleet,

1 are there any examples of public notices contained in  
2 exhibit -- for the public review at this stage?

3 MR. FLEET: A. Yes. We have included in  
4 813A at page 419 an example of the public notice, the  
5 newspaper -- a newspaper advertisement for the public  
6 review of the draft timber management plan for the Lac  
7 Seul Forest. That's on page 419.

8 And if you turn to 420, there is an  
9 example of direct notice that would go to participants  
10 on the mailing list for that same public review of the  
11 draft timber management plan, and on page 421 what you  
12 have is a summary of the mailing list by stakeholder  
13 category, if you will, for that same direct notice.

14 THE CHAIRMAN: Just out of curiosity,  
15 taking the numbers you have got on page 421, what would  
16 that increase to, can you estimate roughly, if you  
17 served everybody; if you hadn't pared down the list?

18 MR. FLEET: I think Mr. -- in this  
19 particular case this is a fairly northern management  
20 unit and I would describe as one of the more remote  
21 management units. That's -- it's my understanding that  
22 that is the total list and we didn't do any paring  
23 down.

24 Mr. Bisschop indicated that although it  
25 is our intent to pare the list down, in this particular



1 case and common practice is that we are still sending  
2 the mailing -- the direct notice to everybody on the  
3 mailing list. That's an example from a more northern,  
4 more remote unit.

5 In one of the smaller management units that I  
6 have in the Timmins District, which is further south  
7 and in an area of greater population, I have 640 plus  
8 on my mailing list for a management unit significantly  
9 smaller than this one.

10 MR. FREIDIN: Q. Now, is there anything  
11 about the notice that's included as an example which is  
12 different than what is required at the present time?

13 MR. FLEET: A. Yes. In this particular  
14 notice there is no mention of the opportunity for the  
15 public to review the Ministry of Natural Resources'  
16 preliminary list of required alterations. That's in  
17 the newspaper advertisement and in the direct notice,  
18 and there is no mention of the opportunity to review  
19 the Ministry of Natural Resources' preliminary list of  
20 required alterations.

21 Q. Thank you. That's now a requirement?

22 A. Yes. If I could -- that is now a  
23 requirement and that is addressed in term and condition  
24 No. 22, draft term and condition 22.

25 THE CHAIRMAN: Where in the notice is the

1 bump-up provision as well if not there?

2 MR. FLEET: At this particular time we  
3 are not putting the notice of bump-up in that  
4 particular notice. Perhaps Mr. Bisschop...

5 MR. BISSCHOP: We take the position, Mr.  
6 Chairman, that bump-up doesn't apply until we have an  
7 approved Class EA, so there aren't currently bump-up  
8 provisions. Technically under the Environmental  
9 Assessment Act we are working under exemption order  
10 MNR11-9, so you won't see bump --

11 THE CHAIRMAN: It sounds like a logical  
12 explanation under the circumstances.

13 MR. BISSCHOP: And if you will recall  
14 from my earlier introduction of terms -- term and  
15 condition No. 2, I have often referred to the fact that  
16 in the future there will a fourth item and - fourth or  
17 whatever - in many cases it will address bump-up.

18 MR. FLEET: If I can read term and  
19 condition 22 into the record:

20 "MNR shall ensure that MNR's preliminary  
21 list of outstanding required alterations  
22 is available at the time of public review  
23 of the draft timber management plan."

24 MR. FREIDIN: Q. Is there a difference  
25 between this public review and the information centre

1 which has already been held?

2 MR. FLEET: A. Yes. There are a few  
3 significant differences between this opportunity --  
4 there are a few significant differences between this  
5 opportunity for public review of the draft timber  
6 management plan and the previous information centre.

7 Q. Could you describe those differences,  
8 please?

9 A. The first difference would be, of  
10 course, that there is no requirement for a one-day  
11 presentation in an information centre fashion, rather  
12 the plan is simply made available at the district and  
13 at the regional office.

14 A difference would be that the  
15 preliminary list of required alterations is now  
16 available so that public has opportunity to see the  
17 results of MNR's initial review, and perhaps less  
18 distinct a difference is the fact that there are MNR  
19 staff available during the public review, the 30-day  
20 public review to deal with the people that would like  
21 to review the plan and that's on a much more one-on-one  
22 basis.

23 And, in fact, it could also be by  
24 appointment if that was desired by a member of the  
25 public, they could phone the district office or the

1 regional office and set up a time during normal  
2 business hours, although I do know of examples where it  
3 has been after normal business hours or on the weekend,  
4 where somebody could come in and deal with the plan and  
5 have them led through it, if you will.

6 MR. MARTEL: Could I ask a question? How  
7 frequently do people come in to review, and the reason  
8 I ask that is: Might you not be better off having a  
9 session rather than have your staff occupied four, five  
10 or six occasions for lengthy periods of time going over  
11 it with one individual?

12 MR. FLEET: In terms of frequency, it  
13 depends on really I guess the complexity of the issues  
14 associated with the plan that has been developed.

15 I think in terms of answering that in  
16 terms of frequency it's more a question of who, and  
17 that is really the people that do come in at this stage  
18 to review the plan are those that are still generally  
19 directly affected.

20 That would be in instances, the logging  
21 operators, tourist operators and so forth. And I guess  
22 the frequency would depend on the number of people  
23 generally directly affected by the plan, cottagers and  
24 trappers.

25 MR. FREIDIN: Q. And is this then the



1 first formal opportunity for people who have perhaps  
2 been involved in the process and had some input prior  
3 to the submission of the draft for review to see  
4 whether in fact their concerns have been addressed  
5 right in the plan itself?

6 MR. FLEET: A. Did you ask, is this the  
7 first formal...?

8 Q. The first formal opportunity for them  
9 to see whether in fact their concerns have been  
10 reflected in the text or in the plan itself?

11 A. Yes, this is the first formal  
12 opportunity and it might have occurred previously and,  
13 if you would, informally. During the development of  
14 the -- during the production of the draft plan, this is  
15 the first formal opportunity provided.

16 Q. All right. Can we deal with the  
17 Ministry's final list of required alterations and that  
18 I believe is also referred to in Figure 2.12-2 on page  
19 155 of Exhibit No. 4.

20 Perhaps before we get there, you should  
21 advise what the next step is. I may have perhaps got a  
22 little bit ahead of where we should be. Public review  
23 of the draft plan, what happens next?

24 A. Okay. What would happen is you hold  
25 the 30-day opportunity for review of the draft plan.

1 In that 30 days the public is expected to submit their  
2 comments so that at the end of the 30-day period you  
3 have received the comments associated with the draft  
4 plan.

5 It is then the responsibility of the  
6 Ministry of Natural Resources to give consideration to  
7 those comments that have been received as part of the  
8 public review and, based upon that consideration,  
9 include those comments with the already prepared  
10 preliminary list of required alterations resulting from  
11 the MNR review into what we describe as a final list of  
12 required alterations to the draft timber management  
13 plan.

14 Q. And what's done with that list?

15 A. The final list of required  
16 alterations is then provided by the Ministry of Natural  
17 Resources to the plan author.

18 Q. If I can refer you to page 162 of the  
19 EA. Do you have that, Mr. Fleet; do you have that in  
20 front of you?

21 A. Yes.

22 Q. In the third full paragraph it  
23 indicates that after the 30-day review period the  
24 Ministry will consider submissions, and in No. 3 it  
25 says:

1 "If possible, MNR will incorporate  
2 suggested alterations from interested  
3 participants into the final list of  
4 required alterations to the draft plan."

5 Does the process require individuals to  
6 be advised if you do not incorporate suggested  
7 alterations that they have made?

8 A. Yes. It is our position that the  
9 Ministry of Natural Resources will respond to all  
10 comments that have been made, and if I could draw you  
11 to 813A again, page 259, point No. 40:

12 "MNR acknowledges all public comments  
13 received and advises of what  
14 consideration, if any, will be given."

15 And that is in the procedure that we  
16 visited this morning.

17 Q. In your experience is this current  
18 practice at the present time?

19 A. By and large that is current practice  
20 across the province, yes.

21 Q. Could you comment on the remaining  
22 steps of the plan review and approval stage of the  
23 process, please, both in respect to the Ministry's  
24 involvement and as well the public involvement?

25 A. Yes, okay. We are now at the point

1 where the list of required alter -- we are at the point  
2 now where we have had held the public review, we have  
3 incorporated the comments into a final list of required  
4 alterations and that final list has now been presented  
5 by the Ministry of Natural Resources via the Director  
6 of Timber Sales to the plan author.

7 It is expected at this point in time that  
8 the plan author, whether that's Crown or company, will  
9 undertake to incorporate those required alterations in  
10 their entirety into the draft timber management plan.  
11 They have a period of time to do that, 30 days is what  
12 is in the Class Environmental Assessment Document.

13 The plan author would then submit back to  
14 the Ministry of Natural Resources the revised timber  
15 management plan incorporating those changes. Upon  
16 receipt of that revised timber management plan, MNR  
17 will review that plan to ensure that the changes indeed  
18 have been incorporated into the newly submitted plan.  
19 If the Ministry of Natural Resources through its review  
20 determines that the plan -- the changes have indeed  
21 been incorporated, then it will approve the plan.

22 If I could read into the record perhaps  
23 term and condition No. 21. I will read it in right  
24 now. Term and condition No. 21 reads:

25 "Ministry of Natural Resources shall



1 ensure that its internal review of timber  
2 management plans involves a review by the  
3 District, Regional and Main Offices and  
4 that the timber management plans are  
5 jointly approved by the appropriate  
6 Regional Director and the Director of  
7 Timber Sales Branch."

8 So what I have taken you through to this  
9 point is the multi-disciplinary review, the review by  
10 district, regional and main offices, and at this stage  
11 we now have a plan that has been approved by the  
12 regional director and the Director of Timber Sales.

13 Q. I understand that there is, after  
14 that particular stage of the process has been reached,  
15 a further opportunity for public to, in this case,  
16 inspect the approved plan; is that correct, Mr.  
17 Bisschop?

18 MR. BISSCHOP: A. Yes, that's correct.

19 Q. And I understand again that you would  
20 like to briefly speak to the public notice requirements  
21 in relation to that opportunity?

22 A. That's correct. Mr. Chairman, it's  
23 on page E of Exhibit 853. And again to draw your  
24 attention to the appropriate section of the Class EA  
25 Document, Exhibit 4, it's pages 164 and 165 where this

1 is discussed.

2 Again, very briefly, the main purpose of  
3 this public notice is identified on the bottom, we are  
4 advising participants that the MNR approved plan is  
5 available for inspection and that there is a final  
6 opportunity for any interested party to request  
7 bump-up. We will be speaking to the subject of bump-up  
8 shortly.

9 I'll just briefly go through again the --  
10 a discussion of the elements of this public notice. In  
11 terms of when it's issued, immediately after the MNR  
12 approval of the plan occurs. In terms of to whom it is  
13 sent, again to all previous participants, all persons  
14 or parties that are known to be directly affected, what  
15 I have referred to as the mandatory list which term and  
16 condition No. 3 addressed and, again, we have the  
17 general notice.

18 And I take into advice your comments  
19 earlier about the paring down of the mailing list.

20 The contents of the plan again -- of the  
21 notice again are very simple. In the case of the  
22 current practice, of course, the contents of the notice  
23 would simply be that the MNR approved plan is available  
24 for inspection at the Ministry district office. In the  
25 future the important additional point of a final 30-day

1 opportunity to request bump-up would be added.

2 In general, the purpose of the notice  
3 would be to advise interested participants that they  
4 now have the chance to see how all comments and  
5 submissions have been taken into account in the  
6 finalization of the plan and the MNR approval of the  
7 plan, and the plan is available for inspection at the  
8 district office. The plan would be available for  
9 inspection at any time during the five years of its  
10 application.

11 The response dimension of this notice of  
12 course is future oriented and it simply would indicate  
13 that if anyone wished to pursue the opportunity for a  
14 bump-up they would have a 30-day period in which to do  
15 that. If there were no requests within that time frame  
16 the plan would be considered automatically approved for  
17 implementation.

18 Again, to refer back to term and  
19 condition No. 2, Part (d) addresses the subject matters  
20 of the fourth public notice.

21 Public Consultation

22 2. (d) A Notice of Plan Inspection shall be provided  
23 upon MNR's approval of the timber management  
plan.

24 This notice shall contain the following  
25 information:

- 1 (i) a statement that the MNR-approved timber  
2 management plan is available for  
inspection;
- 3 (ii) the location, dates and times in which  
4 the approve timber management plan can be  
inspected; and
- 5 (iii) a statement that there is a 30-day period  
6 before the plan comes into effect during  
7 which time there is a final opportunity  
8 for interested persons to request a  
"bump-up" of the timber management plan  
9 or a component part of the timber  
management plan to individual  
environmental assessment status.

10 MR. FREIDIN: Q. Which term and  
11 condition is that, Mr. Bisschop?

12 MR. BISSCHOP: A. Term and condition  
13 2(d).

14 Q. I may have just made an  
15 administrative -- I didn't keep track here, but Mr.  
16 Fleet I think was going to, if he didn't, refer to  
17 2(c). Maybe you did, but...

18 A. I referred to 2(c) for this third  
19 public notice already.

20 Q. All right. Thank you.

21 THE CHAIRMAN: Maybe I missed it in your  
22 comments, but if there is a request for a bump-up, does  
23 it go through the normal EA assessment procedure for  
24 bump-up?

25 MR. FREIDIN: That's what you're going to



1 hear next.

2 THE CHAIRMAN: Okay.

3 MR. FREIDIN: We are going to deal with,  
4 I guess the political --

5 THE CHAIRMAN: The discretion of the  
6 Minister and all that?

7 MR. FREIDIN: All that. So you will be  
8 getting into a suggestion by the Ministry as to what  
9 might be an appropriate manner in which to deal with  
10 bump-up, and that is the next subject matter.

11 THE CHAIRMAN: I assume this will be a  
12 matter for argument or submissions at the end as to  
13 what recommendations by way of decision the Board could  
14 make in this application that might affect the bump-up  
15 procedure as it now presently stands under the existing  
16 legislation?

17 MR. FREIDIN: That may be -- I think that  
18 might be a matter of some discussion at the end.

19 THE CHAIRMAN: In other words, there is  
20 three sort of dynamics here. The Ministry, as I  
21 understand it, is going to present to us a suggested  
22 procedure for bump-up; the Board might also come up  
23 with a suggested procedure for bump-up; and there is  
24 the legislation itself as it now stands or may be  
25 amended in the future that will essentially dictate the

1 way bump-up will work. Is that a fair assessment?

2 MR. FREIDIN: Well, I'm not aware of the  
3 latter that you suggested, you know, the way -- what  
4 the legislation will provide.

5 THE CHAIRMAN: Well, I don't know what it  
6 will provide, but you are probably aware there are  
7 certain suggestions on the table through EA PIP for  
8 amendments to the legislation concerning -- and bump-up  
9 is one of the areas, and class environmental  
10 assessments in general was another.

11 MR. FREIDIN: I would prefer to really --  
12 I think we will be discussing that and I would prefer  
13 to sort of comment on it in light of the circumstances  
14 at the end of the case when we know whether there is  
15 legislation and, if so, what it says.

16 THE CHAIRMAN: Okay.

17 MR. FREIDIN: Sorry Mr. Chairman, I'm  
18 starting to lose the paper war here.

19 Q. Mr. Bisschop, I understand that you  
20 are going to address bump-up and that it is the subject  
21 matter of Exhibit 853F?

22 MR. BISSCHOP: A. That's correct.

23 Q. Which I will put up on the overhead  
24 for you.

25 Actually, I am sorry, before I do that I

1 have a couple of questions remaining for Mr. Fleet.

2 I want to refer you to page 290 of Exhibit 813A. I  
3 knew there was a reason for putting my pages in order.

4 In the last full paragraph on that page  
5 it indicates that:

6 "Plan review by the region helps to  
7 identify training needs."

8 Could you give me some examples of where  
9 a regional review has identified such a need?

10 MR. FLEET: A. Yes. In the review of  
11 timber management plans by the region and in part too  
12 by main office it became clear that there were elements  
13 of the production of a timber management plan that  
14 would have to be addressed through training.

15 One such element was the logical  
16 discussion of objectives, targets, strategies and so  
17 forth. Not only did they become the subject matter of  
18 training as a result of regional review, but also gave  
19 rise to some other things such as revisions to the  
20 Timber Management Planning Manual and additional  
21 direction in terms of the blue pages you have before  
22 you.

23 I guess through the review of plans  
24 regionally and additionally provincially, not only did  
25 we identify the need for certain elements of training

1 but we identified the need for training in and of  
2 itself at a provincial level and we now have a fairly  
3 structured training program that all members of each  
4 planning team must participate in prior to the  
5 commencement of -- or early in the production of a  
6 timber management plan.

7 Q. Now, Mr. Fleet in going through that  
8 plan review and approval process - perhaps this would  
9 apply to the entire process from start to finish - what  
10 happens if someone raises a concern regarding proposed  
11 operations but they do so after the expiration of the  
12 prescribed time period for response?

13 A. Basically what would happen in that  
14 instance would be that if we could accommodate that  
15 concern and that individual, we would.

16 Q. Thank you. Now, if we can move to  
17 you, Mr. Bisschop, and deal with the subject matter of  
18 bump-up. I understand you would like to begin by  
19 speaking to the overhead which is Exhibit 853F.

20 MR. BISSCHOP: A. Yes, Mr. Chairman.  
21 What we are going to do is, as you have indicated, we  
22 are going to be presenting in effect MNR's proposal to  
23 addressing this question of bump-up. I think in many  
24 ways it's seen to be that, a proposal, and I should  
25 advise that obviously it is MNR's commitment to the



1 idea of bump-up.

2 We are going to explain what bump-up is,  
3 the nature of requests, because requests initiate the  
4 entire process, who is involved, the nature of timing  
5 of requests, the procedure that we have set out to be  
6 followed, the results of a decision, and the follow-up  
7 acts that would be taken and, finally, the subject of  
8 where bump-up is addressed in public notices.

9 And I think I have probably beaten that  
10 one to death already in terms of, the future  
11 opportunities will be indicated in every public notice  
12 that we issue for timber management plans.

13 In terms of the explanation of bump-up, I  
14 would refer to pages 177 to 180 of the Class EA.

15 And also - and I don't intend to get into  
16 it immediately, we will get into it a little bit  
17 later - draft term and condition No. 25.

18 THE CHAIRMAN: Sorry, what page is that  
19 in Exhibit 4?

20 MR. CASSIDY: Exhibit 700 or --

21 MR. FREIDIN: No, 177 to 180, it is in  
22 Exhibit 4.

23 MR. BISSCHOP: 177 it begins.

24 THE CHAIRMAN: Thank you.

25 MR. FREIDIN: Q. Perhaps we could start

1 off with a simple question and, that is: What is  
2 bump-up; what does the Ministry see bump-up as being?

3 MR. BISSCHOP: A. Bump-up is essentially  
4 a mechanism that is provided in any class environmental  
5 assessment and in this class environmental assessment,  
6 in particular, to elevate a plan or a part of a plan to  
7 individual environmental assessment status.

8 MNR anticipates that most commonly the  
9 nature of requests for bump-up will be issue oriented  
10 and geographically localized. So, in that sense, we  
11 anticipate that most commonly the request for bump-up  
12 will relate to part of a plan.

13 We have simply provided for the maximum  
14 latitude, I guess you could say, in terms of what  
15 bump-up requests could address by the indication that  
16 the mechanism applies to a timber management plan in  
17 its entirety or part of a plan. Our expectation is  
18 that it will commonly be part of a plan.

19 The mechanism requires that a request is  
20 needed to initiate the process and the consequences of  
21 a successful request, a granting of the request, would  
22 be that the activities that are addressed by the timber  
23 management plan or meant to be addressed by the timber  
24 management plan or the part of the plan that would be  
25 bumped up, would no longer have this prior

1 Environmental Assessment Act approval which the Class  
2 EA provides. As a question -- as a matter of  
3 clarification, through approval of the Class EA  
4 obviously we get approval for future activities that  
5 are carried out in compliance with the requirements of  
6 the approval.

7 This would -- if there was a successful  
8 bump-up request, it would mean that that approval that  
9 we had would no longer apply to those specific  
10 activities in question, rather a separate approval  
11 under the Environmental Assessment Act for those  
12 activities would be required as a separate undertaking  
13 under the Act.

14 Q. So that just so I understand, the  
15 approval of the undertaking wouldn't apply to those  
16 particular activities which might be affected by the  
17 request?

18 A. That's correct.

19 Q. Why has the Ministry provided for the  
20 opportunity for bump-up in the Class Environmental  
21 Assessment?

22 A. Mr. Chairman, I am sure you are quite  
23 familiar that the application of the concept, if you  
24 will, of class environmental assessments in Ontario has  
25 always involved provision of a bump-up mechanism in the

1 class environmental assessment which I would consider  
2 to be, in effect, a form of appeal to the Minister of  
3 the Environment if there is a significant concern or  
4 public controversy about an activity or perceived  
5 significant adverse impacts.

6 THE CHAIRMAN: Well, is not part of the  
7 problem that appears to exist today that the whole  
8 status of Class EAs under the legislation is somewhat  
9 hazy, if I might put it that way, in the sense that  
10 it's not directly referred to in the Act but is implied  
11 more or less through the ability of the Act to deal  
12 with, as part of an undertaking, a plan or program  
13 approval?

14 MR. FREIDIN: Mr. Chairman, it is the  
15 position of the Ministry that it is appropriate for  
16 this Board to be entertaining a class environmental  
17 assessment and it's recognized that there are not  
18 specific provisions in relation to Class EA, that that  
19 nonetheless, in the Ministry's view, does not affect  
20 the issue, that in fact the Class EA is --

21 THE CHAIRMAN: Well, I would suggest to  
22 you, Mr. Freidin, had we thought otherwise we might  
23 have raised it some 16 or 17 months ago.

24 MR. FREIDIN: Well --

25 THE CHAIRMAN: I don't think we would get



1 to this point realizing that we have no jurisdiction to  
2 deal with a class environmental assessment, at least in  
3 the Board's view.

4 MR. FREIDIN: That's right. And I was  
5 perhaps, for that reason, a little bit surprised or  
6 taken back by your -- perhaps I misunderstood your  
7 question.

8 THE CHAIRMAN: No. I think the import of  
9 my question was simply that you referred in your  
10 comments to the provisions regarding class  
11 environmental assessments under the Act, as I  
12 understood your comments, and all I am suggesting is,  
13 is that if one goes to the Act and looks for class  
14 environmental assessments they may get some surprise to  
15 find out that it is not as plain as all that in terms  
16 of the way it is set out in the Act.

17 MR. BISSCHOP: I understand perfectly,  
18 Mr. Chairman, just as the Act. Does not provide for  
19 class environmental assessments explicitly, it doesn't  
20 provide for bump-up explicitly either, bump-up is  
21 simply a common provision that has been incorporated in  
22 every Class EA that has been produced in Ontario.

23 THE CHAIRMAN: All right.

24 MR. FREIDIN: Q. Now, does the  
25 Ministry -- has the Ministry addressed the question

1       regarding who can request a bump-up and also when such  
2       a request can be made?

3               MR. BISSCHOP:  A.  Yes.  And for the  
4       purposes of the explanation, Mr. Chairman, I am going  
5       to be general now and ultimately come back to term and  
6       condition 25.  So I won't specifically refer to any  
7       documentation, I will talking general and come back.

8               The provision is that anyone, any party  
9       or person at any time in the schedule of plan  
10      preparation can request a bump-up.  So, theoretically,  
11      one could request a bump-up as early as day one and as  
12      late as D-Day minus one, if you will.

13              Q.  D-Day being the day that...?

14              A.  D-Day being the date of  
15      implementation of plan.

16              THE CHAIRMAN:  Is that implementation or  
17      approval of plan?

18              MR. BISSCHOP:  Well --

19              THE CHAIRMAN:  The formal approval, is  
20      that what you are calling D-Day?2.

21              MR. BISSCHOP:  Well, our final  
22      approval -- if you assume that we have to have a plan  
23      in place by April the 1st to carry out operation  
24      effective April the 1st, the final approval actually  
25      would happen on March 31st, MNR's approval would happen

1 30 days prior to that to allow the 30-day bump-up. So  
2 one could theoretically request a bump-up on March the  
3 31st.

4 THE CHAIRMAN: Okay. Let me just get  
5 this straight because I may have missed it as well.

6 Is it in every case that the effective  
7 date of a new plan would be April 1 regardless of when,  
8 within the previous calendar period, it was in fact  
9 approved?

10 MR. BISSCHOP: Yes, April 1st is...

11 THE CHAIRMAN: It's got an effective date  
12 of April 1; is that basically it?

13 MR. BISSCHOP: In Ontario our approach to  
14 what we would call the due dates for implementation of  
15 timber management plans is April the 1st.

16 THE CHAIRMAN: But it can be dealt with  
17 at any time during the calendar year, the preparation  
18 of a plan and the review and technically the approval  
19 as well?

20 MR. BISSCHOP: That's correct.

21 MR. FLEET: Mr. Chairman, there are  
22 exceptions and that is, of course, when the approval of  
23 the plan has been delayed for some reason and then  
24 effective approval will be later.

25 THE CHAIRMAN: I see.

1 MR. FREIDIN: Q. Okay. Continue.

2 MR. BISSCHOP: A. So I have indicated  
3 that theoretically the opportunity exists at any time  
4 during the preparation of the plan through until the  
5 day before it's meant to be implemented.

6 The final opportunity would happen  
7 through the final public notice which we issue upon MNR  
8 approval and that notice provides for an opportunity to  
9 request a bump-up within the 30-days after that notice  
10 has been issued. If there are no requests during that  
11 time, the MNR-approved plan would be considered finally  
12 approved, if you will, for implementation.

13 Q. Now, Mr. Bisschop, is there any  
14 opportunity during the five-year term of the approved  
15 plan for bump-up?

16 A. With one exception, and that relates  
17 to a possible in-term major amendment to the plan,  
18 there would be no opportunities for bump-up during the  
19 five-year term.

20 The idea is that the opportunities are  
21 provided in the preparation of the plan, the plan is  
22 approved and approved operations for that five-year  
23 term of the plan ought to be able to be carried out for  
24 that five-year term that the plan applies to.

25 We will speak later to the subject of



1 amendments and the fact that plans do change. If there  
2 are any changes during the term of the plan that  
3 require a major amendment to the plan, bump-up  
4 opportunities are provided for major amendments.

5 Q. Who decides if a bump-up request will  
6 be granted or not?

7 A. Mr. Chairman, as you are probably  
8 well aware, it's the Minister of the Environment who  
9 decides and, therefore, there is another player that  
10 enters into the exercise when it comes to bump-up. So  
11 it's the Ministry of the Environment gets involved and  
12 ultimately the Minister of the Environment makes the  
13 actual decision on the request.

14 Q. Could you advise how a bump-up  
15 request-- well, can you advise what the Ministry's  
16 suggestion is for how a bump-up request should be  
17 initiated and processed?

18 A. Again, I am going to just briefly  
19 give a synopsis of term and condition No. 25. I am not  
20 going to get into the details yet, we will explain it  
21 later, it can be -- it will be recorded in the record.

22 Bump-up

23 For the purposes of this part, a "bump-up" request  
24 is a request from any person to the Minister of the  
25 Environment for the designation of any timber  
management plan, or any part thereof, to the status  
of an individual environmental assessment under The

1       Environmental Assessment Act, R.S.O. 1980, c.140.

2       Particular terms and conditions with respect to  
3       "bump-up" provisions are as follows:

4       25. Provisions for "bump-up" requests shall apply  
5       during the preparation of all timber management  
6       plans. The particulars of this condition are:

7       (a) The "bump-up" procedure may be initiated at  
8       any time during the timber management planning  
9       process, with a final opportunity in the 30  
10      days following the Notice of Plan Inspection  
11      referred to in Condition #2(d).

12      (b) Any person who has a concern with respect to a  
13      timber management plan may initiate the  
14      "bump-up" procedure by requesting the Minister  
15      of the Environment to direct MNR to undertake  
16      an individual environmental assessment of the  
17      timber management plan or a component part of  
18      the timber management plan. The request shall  
19      be in writing, and shall set out the reasons  
20      for the request. The Ministry of the  
21      Environment shall provide copies of the  
22      request and any related correspondence to MNR.

23      (c) The Minister of the Environment shall consider  
24      the request and provide an opportunity for the  
25      Minister of Natural Resources to respond to  
26      the request before making a decision. That  
27      decision will normally be made within 45 days  
28      of the submission of the "bump-up" request.

29      (d) If a "bump-up" is requested during the  
30      preparation of a timber management plan, the  
31      production and review of the plan may proceed  
32      while the Minister of the Environment  
33      considers the request.

34      (e) If the Minister of the Environment does not  
35      agree to the "bump-up" request, the Minister  
36      will give notice to MNR and to the person  
37      requesting the "bump-up" that the request has  
38      been refused, together with reasons for the  
39      refusal.

40      (f) If the Minister of the Environment agrees to  
41      the "bump-up" request, the Minister will give

1 notice to MNR and to the person requesting the  
2 "bump-up" that MNR will be required to prepare  
3 and submit an individual environmental  
4 assessment for review and approval under the  
5 Environmental Assessment Act, R.S.O. 1980, c.  
6 140.

- 7 (g) If a "bump-up" is requested during the 30-day  
8 period for Plan Inspection referred to in  
9 Condition #2(d), or if a "bump-up" request  
10 which was received during plan preparation is  
11 successful, partial or conditional approval of  
12 a timber management plan may be granted by  
13 MNR, in consultation with the Director of the  
14 Environmental Assessment Branch, Ministry of  
15 the Environment, to permit appropriate  
16 operations to proceed.

17 MR. BISSCHOP: The request is initiated  
18 by a written request on the part of the interested  
19 party to the Minister of the Environment with reasons  
20 accompanying that request. The Ministry of the  
21 Environment receives that request and would consult the  
22 Ministry of Natural Resources to obtain whatever  
23 information the Ministry of Natural Resources had on  
24 the subject matter of the request and the Ministry of  
25 Natural Resources' position on the request.

19 The Minister of the Environment would  
20 then make his decision and, because we are concerned  
21 about the timeliness of decisions, we have included in  
22 our proposed approach that a period of 45 days would be  
23 provided for that decision. We fully recognize that  
24 it's -- we are in no position to decree that the  
25 Minister would make his decision in that time, but we



1 are drawing attention to the necessity for a timely  
2 decision.

3 THE CHAIRMAN: Have you taken into  
4 account in that scenario - and I realize these are just  
5 suggestions on the part of MNR - of the EAAC process,  
6 the Environmental Assessment Advisory Committee process  
7 that I believe is involved presently in bump-up  
8 requests where they, on some occasions I believe, have  
9 the power or option - I am not sure how - if the matter  
10 is referred to them to hold public hearings as well on  
11 the request for a bump-up?

12 MR. BISSCHOP: I am somewhat aware of  
13 that. I believe it's a fairly recent development.

14 THE CHAIRMAN: I just bring that out in  
15 view of the timing elements that you are talking about.  
16 If -- as I understand the process presently exists in  
17 some cases, the Minister upon receiving a request for  
18 bump-up - this is the Minister of the Environment - may  
19 in his discretion refer it to EAAC, the Environmental  
20 Assessment Advisory Committee, the committee itself may  
21 decide to hold public hearings to obtain input as to  
22 whether or not the committee should recommend to the  
23 Minister of the Environment whether or not to accede to  
24 the request, and that process in itself is a public  
25 hearing process which may in fact eat up a good portion



1 of your 45 days. I just throw it out.

2 MR. BISSCHOP: My comment would be that  
3 you will not see in our written words on this subject  
4 anything that indicates MNR directing what the Ministry  
5 of Environment would do. I see that as Minister of the  
6 Environment's way of handling the subject of bump-up  
7 request that come to it.

8 THE CHAIRMAN: No, and nobody is trying  
9 to suggest that one Ministry should direct another  
10 Ministry, but we are dealing here with an overall  
11 approval process and I think there should, Mr.  
12 Campbell, be some attempt at some point to coordinate  
13 this aspect of the considerations into something that  
14 is viable and may in fact be something that might work  
15 if such a process were in fact adopted.

16 MR. CAMPBELL: I can advise the Board  
17 that we have approached Mr. Freidin with a view to  
18 making sure that just that result comes before the  
19 Board at some point.

20 THE CHAIRMAN: Thank you.

21 MR. FREIDIN: Mr. Chairman, perhaps just  
22 more by way of edification, can you advise that whether  
23 in the circumstances as you are referring to where this  
24 process has in fact been followed, as I understand your  
25 comments, whether the Class EA in question made any

1 specific reference to that being the manner in which  
2 the bump-up request could be dealt with, or whether it  
3 was silent in that matter and the process in fact has  
4 just been adopted by the Ministry of the Environment?

5 THE CHAIRMAN: I can't really, and I am  
6 not even sure that that's occurred. It's just -- I am  
7 just going from memory. It seems to me that in dealing  
8 with a bump-up procedure there is the option of the  
9 Minister - the same as he has the option when there is  
10 a request for a designation of a proponent in the  
11 private sector or an exemption from the Act or a  
12 hearing request itself - to refer the matter to EAAC,  
13 and I know that EAAC has the authority or power or, in  
14 any effect, does from time to time decide to hold a  
15 public hearing to get the input of other members of the  
16 public other than just the person who requested the  
17 bump-up or designation or whatever.

18 And bearing that in mind, it just seems  
19 to me that unless the two ministries coordinate their  
20 thinking or response in this area, your time frames  
21 that you are proposing might be totally unrealistic.  
22 That is all I am suggesting.

23 MR. FREIDIN: Your comment is well taken,  
24 Mr. Chairman.

25 THE CHAIRMAN: Ms. Swenarchuk, did you

1 want to say something?

2 MS. SWENARCHUK: Just in my review of  
3 these questions, Mr. Chairman, it's my -- to my  
4 knowledge, no Class EA specifically refers to the EAAC  
5 process, the process that the Ministry of Environment,  
6 as you say, may use at its discretion.

7 THE CHAIRMAN: But it is there. I mean  
8 we are aware that there is this EAAC process that is  
9 maybe not is formalized but is, nevertheless, lurking  
10 in the background.

11 MS. SWENARCHUK: In response to Mr.  
12 Freidin's question, I don't believe that it's referred  
13 to specifically in any Class EA.

14 THE CHAIRMAN: Thank you.

15 MR. FREIDIN: Q. I think we -- well...

16 MR. BISSCHOP: A. I have a few more  
17 points to continue the discussion of the procedure.

18 Assuming that the request is made during  
19 plan preparation, the plan preparation and review would  
20 continue to proceed while the request is being  
21 addressed and considered by the Minister of the  
22 Environment. So it's not as though if a request comes  
23 in that everything stops; rather the plan preparation  
24 would proceed, probably attempt to address the subject  
25 of the request as the plan proceeds as well.

1                   And, finally, whether the request is  
2                   ultimately accepted or denied by the Minister of the  
3                   Environment, the Minister would give his decision in  
4                   writing with reasons to the requester and to the  
5                   Ministry of Natural Resources of course as the affected  
6                   party.

7                   MR. FREIDIN: Q. Has the Ministry --

8                   THE CHAIRMAN: Sorry.

9                   MR. FREIDIN: It's all right.

10                  Q. Has the Ministry given any  
11                  consideration as to what will happen if there is a  
12                  successful request?

13                  MR. BISSCHOP: A. Yes. Again, assuming  
14                  that the common occurrence will be that we are dealing  
15                  with part of a plan, an issue oriented and often  
16                  geographically localized part of a plan, we have put  
17                  forward in the proposal that operations not associated  
18                  with the request should be permitted to proceed.

19                  And in terms of dealing with that subject  
20                  when there is a request, we would consult with the  
21                  Director of the Environmental Assessment Branch of the  
22                  Ministry of the Environment in terms of what operations  
23                  would proceed; in effect, a partial or conditional, if  
24                  you will, approval of the plan to allow those  
25                  non-contentious operations to proceed.



1                   THE CHAIRMAN: When you say conditional  
2 approval, would you approve something dependent on the  
3 results of the bumped-up EA, or would you partially  
4 approve it to allow everything that had been approved  
5 to proceed without necessarily reference to what would  
6 happen if part were bumped-up into a full scale EA?

7                   MR. BISSCHOP: As I think of it, it's  
8 probably partial is the key operative word here.

9                   THE CHAIRMAN: So if you could separate  
10 it, you would allow the unaffected parts to proceed  
11 normally, period?

12                  MR. BISSCHOP: That's right, as if--

13                  THE CHAIRMAN: If it couldn't be really--

14                  MR. BISSCHOP: --as if they were an  
15 approved plan.

16                  THE CHAIRMAN: --split.

17                  MR. BISSCHOP: That's right.

18                  THE CHAIRMAN: Then you may have to not  
19 allow anything to proceed and allow it to completely go  
20 a separate EA?

21                  MR. BISSCHOP: Theoretically that's a  
22 possibility.

23                  THE CHAIRMAN: But unlikely in practice?

24                  MR. BISSCHOP: We certainly, as a  
25 consequence of the hearing and the acceptability of the

1 process, we would expect it to be unlikely practice.

2 MR. FREIDIN: Q. So if you could just --  
3 if only part of a plan then was affected by the request  
4 for a bump-up, would the activities that were not  
5 affected by the request be subjected to the entire  
6 process as has been explained here, including approval  
7 of the plan and, in effect, authorization to go ahead  
8 and implement the operations in that part of the plan  
9 not subject to the bump-up?

10 MR. BISSCHOP: A. That's correct. All  
11 other activities would have been planned in accordance  
12 with the process and would have been approved in  
13 accordance with the review and approval process with  
14 public involvement.

15 Q. And is it in that context that you  
16 referred to conditional approval?

17 A. As I was thinking of that subject of  
18 conditional, that is the context I would attach to it;  
19 the condition being, that part of the plan is approved.

20 MR. FREIDIN: And, Mr. Chairman, if the  
21 approval came -- if the bump-up request came after the  
22 approval and during the 30-day public inspection  
23 period, I guess one - if you were speaking in legal  
24 e's - you would say the plan perhaps had been approved  
25 by the Ministry but it couldn't be implemented; in

1 other words, it wasn't operative.

2 THE CHAIRMAN: Part of it anyway.

3 MR. FREIDIN: Part of it, that's correct.

4 MR. BISSCHOP: I did want to add, Mr.

5 Chairman, that there may be situations and we will  
6 speak to it later -- well, I think it has already been  
7 spoken to, this subject of contingency plans.

8 THE CHAIRMAN: Mm-hmm.

9 MR. BISSCHOP: That in order to allow  
10 operations to proceed because of the economic  
11 consequence of not being able to proceed with  
12 operations, there would theoretically also be the  
13 possibility of rather than partial approval of a plan,  
14 approval of a contingency plan that would address  
15 operations that would have an approval and allow them  
16 to proceed. This would be particularly important when  
17 we had a late bump-up request.

18 MR. MARTEL: Has your contingency plan  
19 received all the approvals at this stage, or would you  
20 have to do some more work with it?

21 MR. BISSCHOP: We will be speaking to the  
22 subject of contingency, but assuming that we have a  
23 contentious situation that would likely -- would have  
24 been the subject of a bump-up request or could be the  
25 subject of a bump-up request, we would be thinking

1 contingency in terms of making sure that we had  
2 something in place by April the 1st, in much the same  
3 way as whenever we produce a plan, we are also  
4 producing the first annual work schedule at the same  
5 time to make sure that we have an annual work schedule  
6 in place to start operations on April the 1st.

7 So it's possible that in effect we would  
8 have the contingency plan being that first annual work  
9 schedule which would set out non-contentious  
10 operations.

11 The final matter on what would happen --  
12 what are the consequences if there is a successful  
13 request, is that for those activities which are the  
14 subject of the successful request, of course,  
15 preparation of an individual environmental assessment  
16 would have to proceed. That individual environmental  
17 assessment would have to meet the requirements of  
18 Section 5(3) of the Act and MNR would have the  
19 responsibility for preparation of that individual  
20 environmental assessment as the proponent of the  
21 undertaking of Timber Management on Crown Lands in  
22 Ontario.

23 And what that means is, that we would be  
24 the proponent in the case of a successful bump-up  
25 request related to any kind of management unit, whether



1       it's Crown, company or FMA, because we are the  
2       proponent of the undertaking of timber management, and  
3       for company units we would receive assistance from the  
4       company, of course, in the preparation of the  
5       environmental assessment that would address the  
6       activities that the company would be carrying out under  
7       the terms of that newly required approval.

8                   MR. FREIDIN:  Q.  All right.  I think you  
9       made reference to the public notice provisions in the  
10      earlier evidence.  Is there anything that you didn't  
11      deal with in relation to public notices and provisions  
12      for bump-up references that you would like to deal  
13      with?

14                   MR. BISSCHOP:  A.  No.

15                   THE CHAIRMAN:  Excuse us a moment.

16      ---Discussion off the record

17                   MR. BISSCHOP:  In response to your  
18      question, Mr. Freidin, I think again I have mentioned  
19      the subject of bump-up for every one of the public  
20      notices.  It's simply confirmed here that upon approval  
21      of the Class EA, provisions will be included in every  
22      public notice for a timber management plan, all four of  
23      them, that address the subject of bump-up.

24                   MR. FREIDIN:  Q.  And you made reference  
25      already to the term and condition 25 which is fairly

1       lengthy. Is there a term and condition that you  
2       believe there would be any value in reviewing, or is it  
3       one that you think you have covered in sufficient  
4       detail?

5                   MR. BISSCHOP: A. I have covered it. I  
6       think we should -- I should make a few points in terms  
7       of what I would call the difference between that draft  
8       term and condition and the procedure.

9                   THE CHAIRMAN: Mr. Freidin, could I just  
10      interrupt. Do you happen to have a copy of the  
11      Environmental Assessment Act here?

12                  MR. FREIDIN: I think so.

13                  MR. BISSCHOP: I do, Mr. Chairman, if he  
14      doesn't.

15                  MR. FREIDIN: I don't know whether you  
16      can read mine. Sorry, do you have a clean one.  
17      Anybody have a clean one?

18                  MR. CASSIDY: I have a clean one. And we  
19      will accept at great length the definition of  
20      environment is clean.

21                  THE CHAIRMAN: I will close my eyes.

22                  MR. FREIDIN: (handed).

23                  THE CHAIRMAN: I just wanted to check the  
24      definition of proponent in the Act and it seems to  
25      cover both the Ministry and an FMA holder. Would this

1 be a case where you would have a joint proponent in the  
2 case of an FMA unit?

3 MR. FREIDIN: I think it's certainly  
4 worth -- I think it's something worth considering, the  
5 question -- considering the question.

6 THE CHAIRMAN: Okay.

7 MR. BISSCHOP: That is exactly what I was  
8 going to say.

9 As you know though, MNR is the proponent  
10 in terms of the subject matter of this environmental  
11 assessment hearing.

12 MR. CASSIDY: Can I have my Act back,  
13 sir? And if you are going to make me a proponent, I am  
14 looking forward to have full rights of reply.

15 MR. FREIDIN: (handed)

16 MR. CASSIDY: Thank you.

17 MR. FREIDIN: I think the observation  
18 should be made that I think the Act, unless there is a  
19 specific regulation, applies to government.

20 THE CHAIRMAN: It definitely applies to  
21 government. It is just whether in these strange  
22 situations where you have one party managing and one  
23 party owning...

24 MR. FREIDIN: Well, I think --

25 THE CHAIRMAN: One party carrying out the

1 activities and one party owning the resource, there may  
2 be situations where you might have a joint proponent.  
3 I'm not sure it has ever been done, but I don't see any  
4 reason why it couldn't be done.

5 MR. FREIDIN: Q. Mr. Bisschop, I think  
6 you were just going to make a comment about some--

7 MR. BISSCHOP: A. Yes.

8 Q. --further matter?

9 A. I wanted to make a comment about the  
10 relationship between term and condition No. 25 and a  
11 discussion of bump-up in the Class Environmental  
12 Assessment Document.

13 Again, the term and condition is a draft  
14 and should be viewed as a draft subject to response of  
15 all parties and further deliberations before the Board,  
16 but there are a couple of differences that we have  
17 addressed in the term and conditions, what I would call  
18 some changes from the description in the Class EA and a  
19 couple of -- an attempt to address a couple of what I  
20 think are shortfalls in the Class EA version.

21 First of all, the description of the  
22 bump-up procedure in the Class EA on page 179, steps 1  
23 and 2 basically provide for a request or to make this  
24 request to the Ministry of Natural Resources first.

25 The term and condition does not provide



1 for going to the Ministry of Natural Resources first,  
2 it simply says: request or makes request directly to  
3 the Ministry of the Environment -- to the Minister of  
4 the Environment.

5 THE CHAIRMAN: Is that reasonable for the  
6 public to clue into that, in the sense that it is MNR  
7 that has been leading everybody through the plan from  
8 day one and you are giving them notice that they have a  
9 right to request a bump-up or they have that right  
10 anyways, whether or not they are responding to Notice 4  
11 or not or any of the notices; would they not likely  
12 refer it to MNR?

13 MR. BISSCHOP: I guess our view is that  
14 they are dealing with us on a continuing basis through  
15 the formal opportunities and ongoing informal  
16 consultation and we would attempt to resolve issues  
17 through that forum.

18 THE CHAIRMAN: I guess what I am  
19 suggesting is: If somebody sent in a request to MNR,  
20 MNR should automatically just refer it over to the  
21 Ministry of the Environment -- or the Minister of the  
22 Environment. On the other hand, if they sent it in  
23 directly to the Minister of the Environment, you would  
24 probably be notified shortly thereafter as well.

25 I think what I am getting at is, is you

1 don't want to create a situation where, you know,  
2 somebody is sending it in to the wrong government  
3 agency and, therefore, for some reason its validity is  
4 in question.

5 MR. BISSCHOP: Well, I think in part  
6 that's what we have tried to address, to eliminate the  
7 option of both, make it clear in our public notices  
8 what bump-up is, and if you wish to request a bump-up  
9 this is the Ministry that - this, meaning MOE - is the  
10 Ministry that decides on it anyway, so make the request  
11 directly to the Ministry of the Environment.

12 MR. MARTEL: Why did MNR want it sent to  
13 itself in the first place, that's like having Dracula  
14 in charge of the blood bank?

15 MR. BISSCHOP: Would it --

16 MR. MARTEL: Because they are the ones  
17 who approved it in the first place and you would be  
18 asking them to go against their own plan.

19 MR. FREIDIN: No, but the decision wasn't  
20 to be made by MNR.

21 MR. MARTEL: No, no, but MNR would be the  
22 ones who could say: Yes or no you should have one.

23 MR. FREIDIN: No, no.

24 MR. MARTEL: Because if you --

25 MR. FREIDIN: If you look at term and

1 condition No. 3 it was, if the Ministry refused...

2 MR. MARTEL: If MNR refuses and the  
3 party/person with the concern wishes to pursue the  
4 bump-up, the request would originally go to MNR, and I  
5 am asking why would you have sent it to MNR since they  
6 approved the plan?

7 MR. BISSCHOP: Mr. Martel, if I could try  
8 to...

9 ---Discussion off the record

10 MR. BISSCHOP: Mr. Martel, if I could try  
11 to shed some light on that. I should say that the  
12 basis for the description of the bump-up provisions in  
13 our Class EA is a review of bump-up provisions in  
14 several other Class EAs and those Class EAs - which, by  
15 the way, deal particularly with individual capital  
16 projects - have that provision in them.

17 In the way I -- the way the Ministry of  
18 Natural Resources wrote up the bump-up provisions in  
19 this Class EA, we in effect copied what was a common  
20 approach in other Class EAs which, in effect, said the  
21 first avenue of requesting bump-up is to go to the  
22 proponent and then, if unsatisfied, go to the Ministry  
23 of the Environment.

24 MR. MARTEL: That's exactly what I said.

25 MR. BISSCHOP: And in part, perhaps, we

1       were thinking of that when we made the change in term  
2       and condition 25 to clear up the matter, have the  
3       requester go directly to the Ministry of the  
4       Environment.

5               I suppose I should add that if we ever  
6       got a request from the -- if we ever got a request for  
7       a bump-up from an interested party we would probably  
8       inform the Ministry of the Environment anyway that this  
9       is what has happened in that particular plan.

10              Again, to cover off a couple of  
11       differences, if you could -- one matter we addressed,  
12       and it is a fairly minor clean-up, is in the second  
13       paragraph of item No. 3 on page 179 of the Class EA  
14       we've indicated that -- in the Class EA that if there  
15       is a bump-up request we would still proceed with the  
16       production, review and approval, is what it says in  
17       that paragraph, of the plan while the request was being  
18       considered.

19              The term and condition cleans that up  
20       somewhat by saying we would proceed with the production  
21       and review of the plan while the bump-up request was  
22       being considered. And by way of drawing your attention  
23       to it, that is cleaned up, if you will, in item No. (d)  
24       of condition 25. I think it's obvious.

25              Another matter that we addressed was



1 again in -- referring to the Class EA on page 179, in  
2 the last paragraph under Section 3 we've said that if  
3 there is in effect a late request, no operations could  
4 proceed until the request was settled.

5 What that paragraph did not include at  
6 that time either was that regardless of the fact of  
7 whether the request was late or during the term, the  
8 impression that is left is that no operations can  
9 proceed until any request is settled. We addressed  
10 that through a discussion I had earlier about the  
11 partial or conditional approval of a plan to allow  
12 non-contentious operations to proceed and that matter  
13 is discussed in part (g) - G as in Gord - of condition  
14 No. 25.

15 One other matter I would just like to  
16 cover is that the discussion of bump-up in the Class EA  
17 refers to plans and major amendments in the way the  
18 explanation is organized. We have referred to plans in  
19 term and condition No. 25, we have referred to major  
20 amendments, and an item we will talk about later,  
21 protection operations, in condition 26. We separated  
22 it out in 26.

23 So we've made it very clear in 25,  
24 bump-up related to a timber management plan, the  
25 procedure that is involved, and then in condition No.

1 26 we say that procedure also applies when we have  
2 major amendments or the planning of annual protection  
3 operations.

4 Bump-up

5 26. Provisions for "bump-up" requests shall also apply  
6 during the preparation of major amendments to  
7 approved timber management plans, which is  
8 described in Condition #28, and in the application  
of the annual planning procedure for protectin  
operations, which is described in Condition #38.

9 MR. FREIDIN: Q. And...

10 MR. BISSCHOP: A. That's the sum of my  
11 comments on term and condition 25.

12 Q. And is that also the sum total of  
13 your comments on bump-up?

14 A. Yes, it is.

15 MR. FREIDIN: It might be an appropriate  
16 time for a break, Mr. Chairman.

17 THE CHAIRMAN: 20 minutes.

18 MR. FREIDIN: Oh, no. One matter I would  
19 like to deal with. I have to -- I will be in trouble  
20 if I don't do this.

21 I believe October the 10th at 1:00 p.m.  
22 is an appropriate time for Mr. Cassidy to deal with  
23 scoping. He will be available then and I would like to  
24 request that that be the day and the time for the  
25 scoping session in relation to Panel 16.

1 MR. CASSIDY: I indicated to Ms.  
2 Blastorah that I think the 10th is convenient for me at  
3 any time, she suggested that 1:00 p.m. That is,  
4 however, the start of the day so -- on that day. I am  
5 content obviously to deal with it in the evening, if  
6 you wish.

7 THE CHAIRMAN: Well, why don't we set it  
8 for the opening of that day since we will be coming in  
9 on the Tuesday at one at that point and get it over  
10 with and then go into the evidence.

11 MR. FREIDIN: Thank you, Mr. Chairman.

12 THE CHAIRMAN: October 10th, 1:00 p.m.

13 We will break for 20 minutes. Thank you.

14 ---Recess taken at 3:10 p.m.

15 ---On resuming at 3:35 p.m.

16 MR. FREIDIN: Q. Tell me, Mr. Bisschop,  
17 is that the end of Document 3?

18 MR. BISSCHOP: A. Yes, it was.

19 MR. FREIDIN: Thank you. Document 4.

20 Document 4 is entitled: Keeping the Timber Management  
21 Plan Current, Amendments and Renewals and it begins at  
22 page 467 of Exhibit 813A.

23 I would like to file as the first  
24 exhibit, Mr. Chairman, again hard copies of overheads  
25 which will be used by the witnesses in dealing with

1       this matter. There are page A to I -- A to I, and I  
2       would ask that it be named as Document 4 -- pardon me,  
3       Overheads, Document 4, Amendments, Renewals and  
4       Contingency plans.

5                   THE CHAIRMAN: Exhibit 854.

6                   MR. FREIDIN: Thank you.

7                   THE CHAIRMAN: A through I.

8                   MR. FREIDIN: (handed)

9                   THE CHAIRMAN: Thank you.

10       ---EXHIBIT NO. 854: Hard copy of overheads re:  
11                               Document 4, Amendments, Renewals  
                              and Contingency Plans (Pages A-I).

12                   MR. FREIDIN: I can advise, Mr. Chairman,  
13       Mr. Bisschop and Mr. Fleet will be dealing with the  
14       subject matters of this document.

15                   Q. Okay, Mr. Bisschop, I understand that  
16       you have a few opening remarks you would like to make  
17       using Exhibit 854A?

18                   MR. BISSCHOP: A. Yes. Mr. Chairman,  
19       having covered the timber management plan, preparation,  
20       review and approval requirements, we would now like to  
21       speak to the subject of amendments that might be made  
22       to plans during the five-year term for which a plan is  
23       approved, also the subject of timber management plan  
24       renewals which again, as you will recall, we are  
25       talking about a regular five-year renewal of plans that



1 we call scheduled renewals; and we also have provisions  
2 for what are called unscheduled renewals if we have  
3 major catastrophies which cause a plan to become  
4 obsolete, no longer implementable.

5 Finally, we cover off the provisions for  
6 contingency plans to address situations where plans  
7 cannot be approved on time and to make sure that there  
8 is some form of approval to cover operations so  
9 operations can proceed.

10 We will deal with these subjects in that  
11 order. Dealing first of all with the subject of  
12 amendments, and I draw your attention to Exhibit 854,  
13 page B, and the first item on that page addresses you  
14 to the appropriate sections of the Class Environmental  
15 Assessment and we will be speaking to them in that  
16 order. We will deal, first of all, with the main text,  
17 pages 170 to 173 and then we will get into the details  
18 of Appendix XI.

19 As you know, Mr. Chairman, we consider  
20 timber management plans to be what I call definitive  
21 plans. We make decisions in plans and those decisions  
22 are implemented under the approval that's provided, but  
23 since they are plans and, like all plans, plans are  
24 subject to change. They cover a five-year period, we  
25 are as predictive as possible to cover five years, but

1 during that five years there may be circumstances which  
2 cause change and, therefore, cause changes to have to  
3 be made to plans.

4 So we need -- just as we have formal  
5 mechanisms for the production and review and approval  
6 of plans through the process that we've spent a good  
7 part of three or four days explaining, there are formal  
8 requirements for the production and approval of  
9 amendments to plans and for those formal requirements  
10 we need to have some flexibility to deal with the wide  
11 range of kinds of conditions that might be encountered  
12 that require a plan change.

13 For that we have provided three  
14 categories of amendment, what we call administrative,  
15 minor and major. We will speak to how we make  
16 decisions about which category applies and the details  
17 of the planning requirements for each of those, but a  
18 couple of basic points about them are that the full  
19 timber management planning requirements would apply,  
20 and by that I mean the timber management planning  
21 process requirements as we have described for the  
22 production of a timber management plan itself and the  
23 formal documentation requirements. And those full  
24 planning requirements would apply to whatever category  
25 of amendment was used.

1 Q. Would the planning requirements being  
2 affected by the activity that was the subject matter of  
3 the amendment?

4 A. That's correct.

5 A. For example, if the activity related  
6 to a road, either a change in a road location or  
7 perhaps a new road, the planning requirements that I  
8 spoke to yesterday on planning of roads would apply.  
9 For the other activities, similarly the planning  
10 requirements would apply with the detailed planning in  
11 areas of concern.

12 A major difference between the three  
13 categories of amendment relates to the public  
14 consultation and MNR review and approval requirements  
15 and those differ for each of the three categories.

16 Q. To make sure that there is no  
17 confusion when people read through the Environmental  
18 Assessment Document, I would like to direct your  
19 attention, Mr. Bisschop, to page 170 and, in  
20 particular, I would like to address your attention to  
21 line 35. Line 35 states that:

22 "For any amendment, the planning  
23 requirements will depend on the nature of  
24 the proposed operations, but will involve  
25 the same technical planning requirements

1 as would be required if the operations  
2 were proposed in the preparation of a  
3 new timber management plan."

4 In the top line of 171, when you use the  
5 phrase "technical planning requirements" are you  
6 referring to anything different than what you refer to  
7 as full timber management planning requirements?

8 A. No, they are exactly the same thing  
9 and, as I indicated, what we mean by that terminology  
10 is the timber management planning process requirements  
11 which we have described to date and the accompanying  
12 documentation product requirements for that process.

13 Q. Thank you. Turning to the next page  
14 of Exhibit 854.

15 (Mr. Fleet putting up overhead)

16 MR. FREIDIN: Thank you, Mr. Fleet.

17 Q. What is the title of the next one?

18 MR. BISSCHOP: A. It is called: Plan  
19 Amendments, Procedural Steps.

20 Mr. Chairman, this overhead basically  
21 summarizes pages 170 through 173 of the main text of  
22 the Class EA. And the way the procedure would work is  
23 that in order to proceed with any amendment to a plan  
24 the first step that's involved is a request is made to  
25 the district manager.



1                   The first full paragraph on page 171  
2       speaks to this and allows for a request to be made by  
3       virtually anyone for consideration by the district  
4       manager, in particular of course, a forest company or  
5       for Crown units -- Crown management units, the MNR unit  
6       forester may request an amendment, but other parties  
7       also have the opportunity and the district manager  
8       would consider the request.

9                   The request must be accompanied by  
10      documentation of the requirement for the request and a  
11      description of the nature, what I would refer to as the  
12      general nature of the subject matter that the request  
13      is meant to address; for example, a request to make a  
14      change in a road location, a request for a change in  
15      allocation of stands for harvest.

16                  Q.   When you refer to the request having  
17      documentation as to the general nature of the  
18      amendments, is that in any way different than the type  
19      of documentation that you would expect in the step of  
20      the process that you refer to as submitting the  
21      proposed or draft amendment?

22                  A.   Yes.   We are not expecting the  
23      details to be presented at this time.   There would have  
24      to be a certain amount of detail in terms of --  
25      particularly from the forestry side of the question to

1 be able to assess the request, but the details are not  
2 expected to be provided because there will be planning  
3 requirements that relate to the subject matter of the  
4 request at the time the decision is made as to which  
5 category will apply.

6 So we are talking for the most part a  
7 general indication of what the request is meant to  
8 address with some details particularly related to the  
9 more pure forestry side of the question.

10 The district manager then has his staff  
11 conduct, what I referred to in the text at page 171, as  
12 a technical analysis of the request. Technical is  
13 perhaps a strong word there, it's -- he has his staff  
14 conduct an analysis of the requests in order for him to  
15 make a decision, first of all, on whether or not the  
16 request should be permitted to proceed at all; and  
17 then, secondly, on the appropriate category of  
18 amendment which would apply.

19 On pages 171 and 172 we outline the  
20 factors which are normally considered in that kind of  
21 an analysis. So in effect the district manager's staff  
22 would carry out an analysis that looked at those  
23 factors and he would make the decision based on the  
24 analysis addressing those factors.

25 Q. And would the decision as to the

1 appropriate category of an amendment also be affected  
2 by the list of items referred to starting at the bottom  
3 of page 172 and running over on to page 173?

4 A. That's correct. Those questions  
5 would be considered to address the subject of whether  
6 or not the amendment ought to proceed and also the  
7 appropriate category that might apply.

8 Q. Now, just for a moment looking at the  
9 factors or the questions which are listed starting on  
10 line 26 at page 171, is that a definitive list of the  
11 sorts of things that might be considered?

12 A. By definitive do you mean all  
13 encompassing?

14 Q. That's what I meant.

15 A. It's not all encompassing, but it  
16 certainly addresses the major kinds of considerations  
17 that would be taken into account when these decisions  
18 had to be made.

19 Q. All right. Is the answer to any one  
20 of the questions posed in the list that is there  
21 determinative of the questions regarding whether the  
22 amendment will proceed or the appropriate category of  
23 the amendment?

24 A. Most commonly there is not one of  
25 those factors that is in itself the determinative

1 factor, usually it involves a combination of  
2 consideration of a number of factors.

3 There may be situations where, however,  
4 one factor does have a strong influence on the decision  
5 on the amendment. For example, if I could draw your  
6 attention to the second point which asks the question:

7 "Would the intent of the previously  
8 approved timber management plan be  
9 changed?"

10 That's a fairly general question, and  
11 what is meant by that is that: Is the request that's  
12 put forward something of such a major consequence that  
13 really what we should be considering is either a --  
14 considering the request as either a major amendment to  
15 the plan because there is a major change, for example,  
16 to the strategies that are outlined in the approved  
17 plan; or perhaps it's a significant enough change that  
18 really it is the kind of thing that it should be  
19 addressed through a renewal of the timber management  
20 plan itself. Perhaps it's the kind of change that  
21 should wait until the scheduled renewal of the plan is  
22 due, particularly if this kind of a suggestion comes  
23 forward very late during the term of an approved plan.

24 But, in general, the package of questions  
25 is addressed as a package and each situation will be



1 unique. Just as in the kind of explanation we have  
2 provided for area of concern analysis, the same kind of  
3 thinking applies in terms of looking at the subject of  
4 amendments. Where there is no hard and fast rule,  
5 there is a consideration of each case on its own  
6 merits.

7 Having looked at those questions, the  
8 district manager decides whether the amendment ought to  
9 proceed and, if it should proceed, what category of  
10 amendment should apply.

11 When it comes to the decision on which  
12 category should apply, all of these factors do come  
13 into play but an important consideration is, as  
14 described in the final paragraph on page 172, the  
15 subject of public involvement. Essentially when it  
16 comes to the category of amendment the district manager  
17 looks at the request and considers whether -- what  
18 kinds of opportunities for public consultation should  
19 be provided.

20 On page D of Exhibit 854, which is a  
21 duplicate of page 472 of the statement of evidence,  
22 Exhibit 813A, I have outlined again a simplified  
23 decision tree, if you will, that speaks to the subject  
24 of how the district manager makes a decision on  
25 category of amendment. In this case we are drawing

1 emphasis to the factor of public consultation. I don't  
2 want to leave the impression that that's the only  
3 factor that influences decision, but certainly it is a  
4 major one.

5 And on this figure we provided for ease  
6 of explanation an example of the kind of situation that  
7 might lead to a particular category decision. It is an  
8 attempt to make the whole process understandable. We  
9 do not, however, indicate in all situations what the  
10 category of amendment would be. The message is that  
11 the district manager determines the appropriate  
12 category based on the information available to him and  
13 the situation and looks at the questions that I outline  
14 on pages 171 and 172. But for the purposes of this  
15 explanation, we provided examples.

16 He will look at the question of public  
17 consultation and ask himself, based on the nature of  
18 the request, whether public consultation is required  
19 and may determine that no further public consultation  
20 is required; for example, the amendment may be as  
21 simple a matter as a change to a table in the approved  
22 timber management plan, there was an error, there is no  
23 necessity for public consultation. He would make a  
24 decision that that amendment should be processed  
25 administratively as an administrative amendment.

1                   Yesterday, you heard the subject -- the  
2                   explanation of the subject of contingency areas where  
3                   Mr. Kennedy spoke to the requirement -- the plan  
4                   requirement for contingency area, spoke to the fact  
5                   that we would do all planning during the preparation of  
6                   a timber management plan for contingency areas, and  
7                   that that area was considered to be an additional  
8                   area - excuse me, exactly the wrong thing I said - as a  
9                   replacement area, not an additional area, in terms of  
10                  the timber management plan, and that operations would  
11                  not be permitted in that contingency area unless there  
12                  was a request to do that.

13                  And this is how that kind of request  
14                  would be processed. There would be a request made to  
15                  permit operations in the contingency area for which all  
16                  planning had already been done, the district manager  
17                  would consider that request and, if he agreed with that  
18                  request, would process that amendment request as an  
19                  administrative amendment.

20                  No further public consultation is  
21                  required in terms of the simplified decision tree I am  
22                  explaining here, because that public consultation would  
23                  already have been done.

24                  If he decides that the request for an  
25                  amendment deals with activities for which there has

1       been no public consultation, he then looks at that  
2       situation and decides: Is there a requirement only to  
3       have public review before a final decision is made, or  
4       is there a requirement to have public involvement  
5       actually in the development of the amendment, just as  
6       if it were a development of new activities in a new  
7       timber management plan.

8                       And he may decide, for example, that  
9       public review of a decision -- of a preliminary  
10      decision is all that is required and we would have a  
11      public review that preceded the formal approval of the  
12      amendment. In that situation, the amendment would be a  
13      minor amendment.

14                     The example we have used here is, for  
15      example, a deferred prescription for an area of  
16      concern. It's possible in the preparation of the  
17      timber management plan that for an area of concern we  
18      may not have adequate information to make a  
19      prescription decision. The plan would say that and  
20      would indicate in the plan that an amendment would be  
21      required for that area of concern to deal with the  
22      subject of setting a prescription. That example would  
23      be something that could be processed through the minor  
24      amendment route.

25                     He may decide that the subject matter of



1 the request that is one that should involve public  
2 consultation in both the development of the planned  
3 activities and an opportunity to review decisions that  
4 are made; in other words, two opportunities for public  
5 involvement.

6 The example I have used here is, for  
7 example, a new road to access a new area and, in that  
8 example, the decision on the amendment category that  
9 would apply would be major. Again, the examples are  
10 for illustrative purposes; each situation would be  
11 considered on its own merits.

12 MR. MARTEL: Can I ask you a question?  
13 What if someone disagreed with the - and I realize it's  
14 hypothetical - but the prescription in the first of the  
15 review areas and someone disagreed with the  
16 prescription, let us say, what happens then?

17 MR. BISSCHOP: Assuming we have a minor  
18 amendment and we go public with our prescription?

19 MR. MARTEL: Mm-hmm.

20 MR. BISSCHOP: We would address that  
21 concern, that disagreement with the prescription  
22 through the opportunity that is provided for public  
23 review and attempt to accommodate that concern.

24 MR. FREIDIN: And, Mr. Martel --

25 MR. MARTEL: And if you didn't reach

1 consensus?

2 MR. FREIDIN: I think, Mr. Martel, when  
3 we get to Exhibit 855F(sic) and we go through the  
4 appendix which actually deals with minor amendments, I  
5 think we will address your question head on.

6 MR. MARTEL: All right.

7 MR. FREIDIN: Q. Now, Mr. Bisschop,  
8 before we leave this, you said in evidence your in  
9 reference to page -- or in relation to public  
10 consultation being one of the factors that is looked at  
11 by the district manager that you said: Essentially,  
12 District manager must make a decision about public  
13 consultation. What do you mean when you use the phrase  
14 'essentially'?

15 MR. BISSCHOP: A. I mean, that really  
16 when it comes down to it that will be probably a key  
17 determinant on the part of the district manager in  
18 terms of the category that he assigns to the request.

19 As I indicated, it's not the only  
20 determinant, but he's going to make his judgment on  
21 whether or not that amendment ought to be able to  
22 proceed with minimal, if you will, opportunity for  
23 public review or whether or not there should be more  
24 active public consultation in a formal sense through a  
25 provision of formal opportunities via a major amendment

1 opportunity.

2 Q. And should that be the understanding  
3 that one should ascribe to the word 'essentially' as it  
4 appears on page 172, line 31 of Exhibit 4?

5 A. That's right. That word shouldn't be  
6 considered to be, for example, exclusively; it should  
7 be it's a primary factor, all of the other factors also  
8 come into play.

9 Q. And also on page 172 in the same  
10 sentence you say:

11 "Essentially the district manager must  
12 decide whether the proposed operations  
13 which are the subject matter of  
14 amendment..."

15 And goes on. In this context, what do  
16 you mean by proposed operations?

17 A. Again, at this point we are still  
18 dealing with the request so we are talking, as I  
19 explained earlier on the previous page, the general  
20 nature of the request, whether it's a road relocation  
21 or a new allocation, that kind of general information  
22 about the activities that are the subject of the  
23 request.

24 Now, having made the decision on which  
25 category applies, we can move from the main text of the

1 EA into Appendix XI and there we describe the  
2 requirements for each of the three categories of  
3 amendment.

4 On page E of Exhibit 854 I summarize the  
5 first page of Appendix XI dealing with administrative  
6 amendments. And what happens with administrative  
7 amendments is that, upon receiving the request and  
8 making his determination that the request should  
9 proceed and proceed as an administrative amendment, the  
10 district manager basically approves the amendment at  
11 the same time as the request is received providing, of  
12 course, that all of the planning requirements have been  
13 met. If they hadn't been met, they would be required  
14 to be completed and that amendment would be approved as  
15 an administrative amendment.

16 There would be no public consultation  
17 requirements for administrative amendments. Copies of  
18 the administrative amendments would be appended to all  
19 copies of plans at the district region and main office  
20 and, just as the timber management plan is available  
21 for public inspection throughout the five years of its  
22 term, the amended administrative amendments would be  
23 available as well for public inspection.

24 Finally, copies of all administrative  
25 amendments would be provided to the Ministry of the



1 Environment's region -- regional office and  
2 Environmental Assessment Branch, but we would do that  
3 on a once yearly basis.

4 Turning now to page F of Exhibit  
5 855(sic) --

6 Q. 856, I think. No, I am sorry.

7 A. And pages 2 to 4 of Appendix XI, we  
8 describe the requirements for minor amendments and just  
9 as in the case of all amendments to plans, the full  
10 timber management planning requirements which I spoke  
11 to earlier would be required and the proposed - and I  
12 think when you read the word 'proposed' you should  
13 think of it as draft, just as we talk about draft  
14 timber management plan - amendment would be submitted  
15 to the Ministry of Natural Resources for review and  
16 approval.

17 The district would undertake a review of  
18 the amendment and if that amendment was acceptable to  
19 the district manager, there would be provision for a  
20 public review before a decision is made on its  
21 approval. And often we are dealing with minor  
22 amendments with activities that require a fairly rapid  
23 turnaround, if you will, and the subject of  
24 amendments -- rapid processing of amendments is a  
25 consideration, and we have provided there a 15-day

1 opportunity for public review of minor amendments.

2 Again, without getting into the details,  
3 a public notice would be issued similar to the way we  
4 deal with public notices for timber management plans.  
5 In particular, it would be directed to previous  
6 participants in the plan and parties and persons known  
7 to be affected by the subject matter of the minor  
8 amendment.

9 There would also be the general notices  
10 and those notices would all provide a description of  
11 the situation that is covered by the amendment  
12 proposal.

13 If there are no objections received  
14 during that 15-day review, the district manager would  
15 approve the amendment and that approved amendment could  
16 be implemented.

17 If during the 15-day review objections  
18 were received, the district manager has to make a  
19 determination as to whether the objection is a  
20 reasonable objection and he also addresses, in  
21 particular, the question of whether or not the  
22 amendment is the subject matter of some urgency and he  
23 may decide that the objection he has received and the  
24 desire to proceed as minor because of urgency is  
25 sufficiently important that he wants to approve the

1 amendment and, in order to approve the amendment in  
2 that situation, he would seek the concurrence of the  
3 regional director.

4 In effect, he would consult with the  
5 regional director to make sure that his superior is .  
6 aware of the situation that he's dealing with and that  
7 there is a rationalization of the need to proceed and  
8 to process the amendment as a minor -- to approve the  
9 amendment as a minor amendment.

10 Q. Now, Mr. Bisschop, if we look at page  
11 3 of Appendix No. XI starting in line 22, it describes  
12 two situations where the concurrence of the regional  
13 director may be required. Those two situations being  
14 where the objection received is found to be  
15 unreasonable and; secondly, where a determination is  
16 made by the district manager that although there may be  
17 a reasonable objection there is a legitimate -- there  
18 is legitimate urgency which requires the proposed  
19 amendment to proceed.

20 Can you advise why the proposed process  
21 here provides that the concurrence of the regional  
22 director is required in both of those circumstances?

23 A. In each situation it's felt that  
24 there has been an objection and that that objection  
25 couldn't be addressed, it's advisable that the regional

1 director be consulted to determine the appropriateness  
2 of a decision to approve the minor amendment.

3 So it's basically requiring that the  
4 district manager seek the concurrence of the regional  
5 director and explain his reasons for wanting to proceed  
6 via a minor amendment in those circumstances.

7 Q. Can you provide an example of where  
8 urgency might justify proceeding with a minor  
9 amendment, notwithstanding there was an unresolved but  
10 reasonable objection?

11 A. Yes. Mr. Chairman, you have probably  
12 heard several witnesses refer to examples of blowdown  
13 situations. For example, there may be a blowdown in an  
14 area in the vicinity of a community along, for example,  
15 a major highway, near a community, in the early spring  
16 and that blowdown involves a number of forest stands  
17 that have saw log material that would become perhaps a  
18 high fire hazard later on in the season.

19 On the subject of public safety, the  
20 district manager would be looking to remove the saw log  
21 material in that blowdown situation. There may be  
22 objections from individuals and affected parties in the  
23 community or in the area of the blowdown that perhaps,  
24 for example, relate to the aesthetics in the vicinity  
25 of the highway that -- an aesthetic concern related



1 perhaps to individuals that affected in the area.

2 He makes his decision that there is an  
3 urgency requirement for salvage operations in that  
4 blowdown area on the basis, for example in this case,  
5 of the hazard to public safety related to the material  
6 that was blown down.

7 There may be situations where reasonable  
8 objections are provided at the time of the public  
9 review and there may be situations, for example, where  
10 more information becomes available through public  
11 review primarily from interested participants.

12 The minor amendment may not be approved  
13 and that could lead to a withdrawal of the amendment  
14 proposal; it could lead to a revised minor amendment,  
15 for example, in the case of, say, a change in a road  
16 location, an interested party could suggest another  
17 alternative that would be considered through perhaps a  
18 revised minor amendment proposal; or if there is  
19 considerable new information that is brought forward  
20 and which sheds light on the issue being of a more  
21 complex nature, perhaps that proposal that was  
22 originally submitted through a minor amendment would be  
23 elevated to a major amendment proposal.

24 Q. And are those possibilities that you  
25 just referred to described in Appendix XI?

1                   A. Yes, that is discussed on page 4 of  
2 Appendix XI in the first full paragraph beginning on  
3 line 5.

4                   As in the case of administrative  
5 amendments - and this applies to all amendments -  
6 copies of the approved amendment would be appended to  
7 all copies of plans in the Ministry offices and, for  
8 minor amendments, each amendment would be sent to the  
9 appropriate regional office of the Ministry of  
10 Environment and the Environmental Assessment Branch.

11                   Turning now to the subject of major  
12 amendments which is discussed in more detail on pages 4  
13 through 9 of the Appendix XI --

14                   THE CHAIRMAN: Mr. Bisschop, is there any  
15 requirement for a request for a minor amendment to be  
16 sent to any other agencies as well as the notice  
17 regarding public review. In other words, would a  
18 request for a minor amendment by, say, an operator be  
19 sent to MOE, or would they just be relying on the  
20 public notice?

21                   MR. BISSCHOP: By an operator you mean  
22 a --

23                   THE CHAIRMAN: An FMA holder for  
24 instance.

25                   MR. BISSCHOP: FMA holder. No, the

1 requirement is to send the request to the Ministry of  
2 Natural Resources.

3 THE CHAIRMAN: Yes. And then you would  
4 publish a notice allowing the public 15 days--

5 MR. BISSCHOP: That's correct.

6 THE CHAIRMAN: --to put in their  
7 comments. Would the Ministry of the Environment fall  
8 into that general notification provision as well?

9 MR. BISSCHOP: Yes. And that is covered  
10 on the bottom of page 2 through the direct notice  
11 requirements and would be covered as well by the  
12 provisions of term and condition No. 3 which deal with  
13 what I called the mandatory list in terms of government  
14 and ministries.

15 THE CHAIRMAN: That is what I am asking.  
16 Is there a mandatory list to whom written notice would  
17 go of the amendment in addition to the 15-day public  
18 notice?

19 MR. BISSCHOP: Yes.

20 THE CHAIRMAN: I guess I am  
21 misunderstanding. Is the notice for the 15-day public  
22 review a newspaper advertisement.

23 MR. BISSCHOP: There are two notices.  
24 There is the news -- at the bottom of page 2, and maybe  
25 I should have spent some time on this.

1 MR. FREIDIN: On Appendix XI, Mr.  
2 Chairman, Appendix XI to the Environmental Assessment  
3 Document, Exhibit 4, page 2.

4 And I think, Mr. Bisschop, you can take  
5 it from there. I think you are referring to the --  
6 starting in line 26?

7 MR. BISSCHOP: If you recall, Mr.  
8 Chairman, the wording is almost exactly the same as,  
9 for example, the public review of a timber management  
10 plan: All previously identified participants and any  
11 parties, persons known to be directly affected, so...

12 THE CHAIRMAN: So that will cover the  
13 agencies?

14 MR. BISSCHOP: That would cover all the  
15 agencies.

16 THE CHAIRMAN: Okay.

17 MR. BISSCHOP: And I would suggest term  
18 and condition 3 addresses that.

19 THE CHAIRMAN: Thank you.

20 MR. BISSCHOP: The provisions for major  
21 amendments are in some ways, I suppose you could  
22 consider it as almost, in part, a mini-plan in the  
23 sense that with the public involvement side of it there  
24 is opportunities for public involvement formally in the  
25 development of the -- the further development of the



1 proposals in the major amendment and finally public  
2 inspection of the approved amendment.

3 Again, the full timber management  
4 planning requirements would apply and the proposed or  
5 draft amendment would be submitted to the Ministry of  
6 Natural Resources for review and approval.

7 I drew the analogy to the plan in part to  
8 save some time in terms of covering off the discussion  
9 of public consultation. In terms of the information  
10 centre there would be planning done before the  
11 information centre; preliminary proposals would be  
12 developed and they would be brought to the public at  
13 the information centre; the public notice for the  
14 information centre would be identical to the kind of  
15 notice that you would see for an information centre for  
16 a timber management plan; the kind of information that  
17 would be available at the information centre would, of  
18 course, be specifically related to the major amendment;  
19 and the responses that come out of the information  
20 centre, including continuing ongoing discussions with  
21 parties that came forward, would affect the development  
22 of the major amendment. And all of the requirements of  
23 30 days advance notice and 30 days response time would  
24 be provided.

25 After the information centre the major

1 amendment would be formalized in the production of the  
2 documentation. The documentation is reviewed at all  
3 three levels of the Ministry, just as in the case of a  
4 timber management plan, with reviews by the district,  
5 regional and main office and, just as in the case of a  
6 timber management plan, there would be joint approval  
7 by the Director of timber Sales Branch and the Regional  
8 Director.

9 As well, for major amendments - and I  
10 have noted this earlier particularly with reference to  
11 my term and condition No. 26 - bump-up provisions apply  
12 to major amendments. And, finally, copies of approved  
13 major amendments would be appended to all copies of  
14 plans in the Ministry offices and copies would be  
15 provided to the regional and Environmental Assessment  
16 Branch Offices of the Ministry of the Environment.

17 MR. FREIDIN: Q. Mr. Bisschop, when  
18 dealing with the choice of the category of amendment, I  
19 think you made it clear, and I think the document makes  
20 it clear, that it's the district manager who makes that  
21 decision.

22 You referred in your evidence, and we  
23 find in the Environmental Assessment, Exhibit 4,  
24 comments about whether proposed amendments will cause  
25 substantial change or not to what was contemplated by

1 the plan. Who is the person who makes the decision as  
2 to whether in fact a substantial change would occur?

3 MR. BISSCHOP: A. The district manager  
4 would be making that decision as he considers the  
5 amendment request.

6 Q. And having reviewed the procedure or  
7 the process for making determinations of the two  
8 questions referred to on page 171, could you answer the  
9 question as to why three categories of amendments were  
10 chosen?

11 A. As I indicated in the initial  
12 introduction to the discussion about the requirement to  
13 have a formal mechanism to change plans, I spoke to the  
14 subject of the nature of the changes will be variable,  
15 ranging from the very simple to more complex changes;  
16 so there is a requirement for flexible provisions to  
17 make those changes, and we have brought that  
18 flexibility into the process through the three  
19 categories of amendment.

20 Some situations are relatively  
21 straightforward decisions. We rely on the district  
22 manager to make reasonable decisions through the  
23 consideration of the factors that we outline on pages  
24 171 and 172, and we allow for a case-by-case analysis  
25 of the situation so that the appropriate amendment

1 category is determined by the district manager in the  
2 individual situation he's dealing with.

3 Q. Now, Mr. Bisschop, you I think  
4 already indicated that administrative amendments are  
5 used -- the sorts of situations, in a general sort of  
6 way, that would be dealt with by the administrative  
7 category. And, more particularly, could you advise  
8 what the thinking was behind having a minor amendment  
9 category and a major amendment category?

10 A. The thinking was that we didn't want  
11 to tie ourselves into a lengthy involved process to  
12 approve -- to process and approve all amendments, we  
13 wanted to be able to deal in a case-by-case way with  
14 individual situations and address the subject of  
15 particularly public involvement in that question in  
16 terms of the kinds of activities that are being  
17 addressed in the amendment and what is the nature of  
18 public consultation that ought to be required.

19 And through the provisions for minor and  
20 major amendments, we have provided, with the district  
21 manager making reasonable decision on the category,  
22 appropriate vehicles for the public to be able to  
23 either input into or review decisions that are being  
24 made.

25 Q. Mr. Fleet, I understand that in the



1 witness statements that there are a number of examples  
2 of timber management plan amendments?

3 MR. FLEET: A. Yes, that's correct.

4 Q. Before we get into them, can you  
5 advise what you are attempting to demonstrate through  
6 presentation of those examples?

7 A. Yes. I thought that we could present  
8 to the Board three real examples of amendments that  
9 have been proposed and approved to give you an  
10 understanding of the nature of the operations  
11 associated with each of the amendment categories.

12 Q. Why do you want to do that?

13 A. Essentially to demonstrate the  
14 decision that has been made in each of those three  
15 cases.

16 If I could take the Board to 813A, pages  
17 477 to 482, and specifically in this case 482 to start.  
18 This is a map of an administrative amendment and the  
19 specific amendment is the relocation of a road shown by  
20 the dotted line in the mid-portion of the diagram.

21 The reason for the request for the  
22 amendment is because in the winter the existing road  
23 has proved to be dangerous and there has indeed been  
24 one accident on that road already.

25 The road, as you move to the east, is

1 uphill and then there's a corner at the top and after  
2 they built the road and tried to drive on it in the  
3 winter they had at least one accident and they wanted  
4 to move the location to get off of the hill and reduce  
5 the severity of the corner at the top of the hill.

6 So what you have is, you have a request  
7 for an amendment and because of a safety factor there  
8 was a degree of urgency with respect to processing and  
9 enabling the company to move forward with building the  
10 new road.

11 What was approved was that road location  
12 as a winter road, so the dotted line then represents a  
13 winter road.

14 The additional documentation that is  
15 included, if you look to page 478 and 479 -- first of  
16 all, I'm sorry, 480 and 481, you have the letter of  
17 request from the company official with a reason for the  
18 request and it talks to a motor vehicle accident and  
19 the slope of the hill and so forth.

20 If you go to page 478 and 479, this is in  
21 Timmins District where I work, one of the means that  
22 the district manager uses to conduct a technical  
23 analysis of the amendment request is to have his staff  
24 from each of the various disciplines review that  
25 request, and so you see a circulation sheet on page 479

1       that, if you will, has been signed off by each of the  
2       various program representatives.

3               If there had been a difficulty or a  
4       concern with respect to this particular amendment,  
5       there would be some comments included with that  
6       circulation sheet that would have been available to the  
7       district manager.

8               On page 478 you just see the  
9       administrative approval of that particular amendment.  
10      The unit forester's recommendation, the forest  
11      management supervisor's recommendation.

12              Down, midway through the page, it says  
13      (b) Decision, then you see the district manager's  
14      signature and date and he has made the decision that it  
15      would be an administrative amendment and then he  
16      recommends another administrative amendment for  
17      approval down at the very bottom of the page.

18              Turning then to 477, simply this is a  
19      letter of notification to the requester, in this case,  
20      an individual from the paper company that that  
21      amendment request has been approved.

22              The next example would be of a decision  
23      to approve a minor amendment. What has happened is  
24      there has been a fire in this particular case on the  
25      Minaki Crown Management Unit and there is some timber

1 which has been fired killed.

2 Q. What page are we looking at now?

3 A. That would be starting on page 483  
4 and there's a map of this particular minor amendment on  
5 page 484. In this particular case there has been a  
6 fire kill and there is indeed too some dying timber.  
7 There is a request for an amendment to salvage this  
8 timber and this was not previously approved or planned  
9 for in the timber management plan.

10 There was a public notification for a  
11 review and, through that notification and review, there  
12 was an objection to the proposal for the amendment.  
13 There is a letter included, there is a response from  
14 the Ministry of Natural Resources to the objection and  
15 that would be -- the letter is page 486 and 487, the  
16 Ministry's response is 488 to 490.

17 On page 483 there is a letter to the  
18 regional director from the district essentially  
19 outlining the issue, which is the objection to the  
20 minor amendment, a resolution of that issue with  
21 respect to the development of a reserve along a  
22 particular lake which was the issue or part of the  
23 issue, and at the very bottom it says:

24 "We ask for your concurrence."

25 So to corroborate what Mr. Bisschop has



1 just presented, there is the seeking of a concurrence  
2 for the minor amendment in light of an objection, and  
3 then on 485 there is the amendment approval sheet with  
4 the various signatures again.

5 In the case of this minor amendment where  
6 there was an objection that was reasonably addressed by  
7 the Ministry of Natural Resources, you see the regional  
8 director's concurrence by his signature at the bottom  
9 of 485.

10 Very quickly, the third example is again  
11 on Minaki Crown Management Unit and it was a request  
12 for a major amendment. In this case there was the  
13 need -- the identified need to add an additional  
14 allocation of some 350 hectares. The need is explained  
15 because of the result of insufficient funds to build a  
16 road to access some allocations in the approved timber  
17 management plan.

18 The proposed amendment map on page 497 is  
19 an allocation that will be accessed by tertiary road at  
20 a greatly reduced road construction cost and also by  
21 winter road. And on that map you can see that there's  
22 some areas of concern that have been identified, some  
23 public concerns in the lower right-hand corner of the  
24 map, there's an outpost camp and so forth, and so there  
25 was a decision for a major amendment and there was a

1 need for public consultation.

2 And you will see through the rest of that  
3 particular example, 498 through to 509, there is a  
4 comprehensive planning that is included there. There  
5 are AOC prescription stand listings and so forth,  
6 copies of the advertisements, the mailing list and so  
7 forth.

8 Q. Mr. Fleet, you used a phrase that  
9 there was -- this was a request for a major amendment  
10 or this was a request for a minor amendment. Would it  
11 be more precise and perhaps more accurate to say that  
12 it was a request for an amendment that the district  
13 manager decided should be categorized as major or  
14 minor?

15 A. Thank you, Mr. Freidin. Indeed that  
16 would be much more precise.

17 Q. Thank you. Now, are you by way of  
18 putting in these examples suggesting that in all cases  
19 where the same activities are contemplated that the  
20 amendment will always fall into the same category?

21 A. No, that is perhaps the opposite of  
22 what I am trying to demonstrate to the Board.

23 Q. In fact was consideration given at  
24 one time by the Ministry to preparing or attempting to  
25 prepare some sort of a list which would somehow

1 pre-identify situations which would fall into one  
2 category as opposed to another?

3 A. There was talk of that at one time,  
4 yes.

5 Q. I understand -- I am going to ask you  
6 then to explain why that was the case; why that  
7 particular approach was not felt to be appropriate?

8 A. Yes. I think the Ministry discarded  
9 that approach because it became evident to us when we  
10 tried to do that that really in terms of making the  
11 decision as to the category of amendment, you have to  
12 not only examine the nature of the activities that are  
13 requested for amendment; in other words, the addition  
14 of a harvest allocation or the construction or  
15 relocation of a road - you do have to consider that,  
16 but that is not the only thing you have to consider -  
17 you also have to consider that in the context of the  
18 environment, if you would, of where those activities  
19 are going to occur.

20 Q. And I understand that you have  
21 prepared a number of overheads that you wish to use to  
22 demonstrate the point that you've just made?

23 A. Yes, if I could demonstrate this  
24 point by means of three overheads, a hypothetical  
25 situation which I have created for this purpose.

1 Q. All right.

2 MR. FREIDIN: Perhaps then the next  
3 exhibit, Mr. Chairman, could be I guess a document that  
4 has three pages. So perhaps it should be marked with  
5 A, B and C. What would the number be?

6 THE CHAIRMAN: 855.

7 MR. FREIDIN: So 855A, B and C, and the  
8 exhibit should be described as hypothetical  
9 situations - different category of amendments.

10 (handed)

11 THE CHAIRMAN: Thank you.

12 MR. FREIDIN: Perhaps we should preface  
13 that by same activity, different situation, different  
14 category of amendments.

15 THE CHAIRMAN: Thank you.

16

17 ---EXHIBIT NO. 855: Hard copy of overheads re:  
18 hypothetical situations - same  
19 activity, different situation,  
different category of amendment.

20 MR. FREIDIN: Q. Before you begin, Mr.  
21 Fleet, perhaps you could just indicate what it is you  
22 are going to try and demonstrate through the use of  
23 these overheads?

24 MR. FLEET: A. What I'm hoping to do in  
25 this demonstration is show how this particular



1 activity, the addition of 125 hectares of harvest  
2 allocation as an amendment request, could in a variety  
3 of different situations be classified as a different  
4 category of amendment based upon the circumstances.

5 So with respect to -- I guess that's  
6 855A, you see an overhead that shows you the existing  
7 cut-over, which is that almost kidney-shaped area on  
8 the west side, and then the hatched area in light green  
9 on the screen is the proposal for 125 hectares of  
10 additional allocation.

11 In this particular situation it would be  
12 in an area what is deemed to be normal operating areas,  
13 a jack pine sand flat, probably an outwash plane, and  
14 no other identified values in the immediate or adjacent  
15 area. This activity, in this situation the decision  
16 could possibly be that this would be an administrative  
17 amendment to a timber management plan.

18 Q. And why might it be an administrative  
19 amendment in that situation?

20 A. I would suggest one of the key  
21 reasons here why it might be an administrative  
22 amendment is the fact that it is a normal operating  
23 area, there are no other identified values in the  
24 vicinity and the district manager would decide that  
25 there was indeed no need for any type of public

1 consultation.

2 Q. Okay.

3 A. A factor that could come into play  
4 too might be the urgency of the need for that  
5 additional allocation, which I can't demonstrate on the  
6 map.

7 Okay. I guess what the next one would be  
8 would be 855B. It is exactly the same configuration,  
9 if you will, the same existing cut-over, the same leave  
10 block for moose, the same roads and the same request  
11 for 125 hectares of additional allocation.

12 In this particular case though what we  
13 have is we have a cross-country ski trail along the  
14 east side of and in part of the area what would be the  
15 requested additional allocation, and also there is a  
16 brook trout fishery in the stream even further to the  
17 east.

18 What I am demonstrating here is that the  
19 circumstance is getting a little bit more complex;  
20 there are other known values in the vicinity, one being  
21 the stream and the other being the cross-country ski  
22 trail.

23 In this case, it is likely that the  
24 district manager's decision could be a minor amendment  
25 and that decision would very probably be based upon his

1 or her need to have a public review because there are  
2 affected stakeholders.

3 Turning now to 855C. Once again that is  
4 exactly the same activities being requested for  
5 amendment and the circumstances have changed once  
6 again.

7 Q. The same proposal in terms of the  
8 amendment?

9 A. Yes, it's a request for 125 hectares  
10 of additional allocation. In this case the allocation  
11 request is immediately west of a cold water fishery  
12 that has a 90-metre reserve around it in the part of  
13 the lake that you can see, based on slope.

14 Additionally, at the west end of the lake  
15 there are some cottages and they are considered remote  
16 and by remote that would be; they are not road accessed  
17 and quite probably there would be no road access to  
18 that lake at all.

19 In this case, because of the again  
20 increasingly complex nature of the circumstances, the  
21 decision could be that this would be considered a major  
22 amendment and should be treated as such.

23 Q. Can you provide some indication as to  
24 why the situation shown in Exhibit 855C with the remote  
25 cottage lots might be major, and the situation

1 described on page 855E, the exact same proposed  
2 activity with the ski trail and the stream might be  
3 minor?

4 A. Partially because with respect to the  
5 decision to make 855C major maybe, for example, the  
6 consideration of tourism guidelines with the three  
7 cottage -- remote cottage lots, application of the  
8 fisheries guideline, the need for consultation with  
9 public.

10 Q. Now, I think those are the end -- the  
11 questions I had for you, Mr. Fleet. I don't have any  
12 further questions. Is there anything that I have  
13 missed?

14 A. I don't think so. I think that is  
15 the point, is that the same activity, depending on the  
16 consideration of the circumstances of the request,  
17 could be one of the three categories.

18 And so that demonstration hopefully will  
19 leave the Board with an understanding of the difficulty  
20 of trying to establish a list to categorize ahead of  
21 time what type of activities would be what type of  
22 amendment.

23 MR. FREIDIN: Now, I think, Mr. Chairman,  
24 we can probably -- how long do you think you will be,  
25 Mr. Bisschop, contingency areas -- or, pardon me,



1 contingency plans and the unscheduled renewals?

2 MR. BISSCHOP: Probably 15 minutes.

3 THE CHAIRMAN: For what?

4 MR. BISSCHOP: Max to complete both.

5 MR. FREIDIN: To finish this document. I  
6 didn't know how long you intended to sit.

7 THE CHAIRMAN: Well, I think if we finish  
8 this document in 15 minutes or thereabouts that will  
9 probably be enough for today. It's been a long day.

10 MR. BISSCHOP: It may even be less.

11 THE CHAIRMAN: We will encourage you to  
12 do your best.

13 MR. FREIDIN: Q. Now, I understand that  
14 we go back to Exhibit 854 -- I am sorry, the subject of  
15 renewals is next and there are no overheads in relation  
16 to that; is that correct?

17 MR. BISSCHOP: A. That's correct.

18 Q. Okay. And could you explain to the  
19 Board what is meant by -- describe the Ministry's  
20 position as to how we would deal with scheduled  
21 renewals and unscheduled renewals?

22 A. Yes. Mr. Chairman, the subject  
23 matter is addressed in the Class EA on pages 169 and  
24 170, as well in the statement of evidence, Exhibit  
25 813A, at pages 473 and 474 and I will be referring to

1 page 474 in a minute.

2 As discussed I believe by Mr. Kennedy in  
3 Document 2, we produce timber management plans on a  
4 five-year cycle, every five years we produce a new  
5 timber management plan for every management unit. That  
6 is referred to as a scheduled renewal. And, as you are  
7 aware, there are approximately a hundred management  
8 units in the province.

9 We don't produce all hundred plans in one  
10 year and then five years later do all one hundred  
11 again, they are distributed through a five-year period.  
12 Naturally the formal -- all of the timber management  
13 planning requirements would apply to those scheduled  
14 renewals as we have described in the evidence of  
15 Document 2.

16 There may be situations during the term  
17 of the plan where there is a major natural disturbance  
18 or catastrophe that causes the plan to become what we  
19 call obsolete or non-implementable, for example, a  
20 major fire.

21 In situations like that, assume for  
22 example that it might happen in year three, we would --  
23 year two or three, we would look at that situation and,  
24 if it's a major fire, make a determination that an  
25 unscheduled renewal of the plan is required and an

1 entire new plan would be produced following again all  
2 of the requirements of the timber management planning  
3 process we described in Document 2.

4 On page 474 of the statement of evidence,  
5 Exhibit 813A in the third paragraph, we explain that  
6 had Mr. Multamaki's first plan for the Red Lake Crown  
7 Management Unit been in place and approved and the fire  
8 had occurred, for example in year two of that plan, he  
9 would have been faced with an unscheduled renewal of  
10 the timber management plan.

11 And I think there is nothing more to say  
12 on the subject of renewals.

13 Q. The next section deals with  
14 contingency plans and I understand we have a couple of  
15 overheads in relation to that?

16 A. Yes, pages H and I of Exhibit 854  
17 deal with this subject.

18 MR. FREIDIN: If I could just have a  
19 moment, Mr. Chairman.

20 MR. BISSCHOP: While he's searching, Mr.  
21 Chairman, the subject is also discussed in the Class  
22 Environmental Assessment at pages 181 to 183 and on  
23 page 474 and 475 of Exhibit 813A.

24 MR. FREIDIN: Q. Now, the first overhead  
25 you want I guess is 854H?

1                   MR. BISSCHOP: A. Yes. Entitled:  
2           Contingency Area versus Contingency Plan. We thought  
3           it might be advisable to speak to the subject of the  
4           difference between contingency area and contingency  
5           plan in order to make sure there is a clear  
6           understanding of this.

7                   My colleague, Mr. Fleet, advises me - and  
8           I recall this discussion at one time - that we searched  
9           for a different word to use in each situation and he  
10          looked in the dictionary and the only synonyms he could  
11          find for the terms 'contingency' were emergency or  
12          surprise and we didn't particularly want to talk about  
13          surprise plans.

14                   But to briefly address the difference,  
15          Mr. Kennedy spoke to the subject of contingency area  
16          yesterday, the replacement area idea, the timber  
17          management plan requirement dealing with anywhere from  
18          90 to 365-days' worth of replacement harvest area; he  
19          spoke to the planning for those areas being done in the  
20          preparation of a plan and how we would -- and I spoke  
21          today about how we would process a request to enter  
22          into a contingency area through the administrative  
23          amendment provisions that we have just speak spoken  
24          about.

25                   A contingency plan then is something



1 different, it is a requirement for a plan to allow some  
2 operations to proceed when a timber management plan  
3 cannot -- itself cannot be produced and approved on  
4 time.

5                   So the basic premises for the production  
6 of a contingency plan are that something has gone wrong  
7 in the preparation of the timber management plan, and  
8 that can be anything in it, perhaps an inadequate draft  
9 plan being submitted that caused further work to be  
10 done so that the schedule could not be met; it could  
11 also relate to, for example, during the planning  
12 process staff being called off the planning job to  
13 address a fire situation as frequently might happen for  
14 example in our northwest region; the plan could not be  
15 approved on time, but we still need to have some form  
16 of approval in place to allow operations to proceed.

17                   The other basic premise to understand  
18 here is that in order for any operations to proceed  
19 there must be some form of approval in place. So  
20 operations can only proceed under the direction of some  
21 form of an approval.

22                   So to deal with these kind of situations  
23 we have provisions in the process for the development  
24 of a contingency plan and the next page, page I of  
25 Exhibit 854, addresses this subject, again, referring

1 to the Class EA on pages 181 to 183 for the details of  
2 the explanation.

3 And there are formal requirements --  
4 formal process requirements, if you will, that require:  
5 First of all, when we know that this requirement might  
6 face us, there is a requirement to produce a proposal  
7 and deal with the Environmental Assessment Branch -  
8 excuse me - before we proceed.

9 THE CHAIRMAN: Dealing with the EA Branch  
10 is giving you indigestion; is that it?

11 MR. BISSCHOP: I haven't talked to those  
12 people for some time actually.

13 In that proposal, we would describe the  
14 proposed contents of that contingency plan, what kinds  
15 of activities it will cover, the term of the plan, what  
16 kind of time it would cover, and that could be  
17 something as specific as saying the plan will cover a  
18 period of 90 days while we get the timber management  
19 plan approved, it may be for longer, there will be a  
20 discussion of the schedule for the preparation of the  
21 plan, timing, and discussion of provisions for public  
22 consultation.

23 Often what would happen, Mr. Chairman, is  
24 the requirement for a contingency plan would be known  
25 fairly well in advance of the April the 1st scheduled

1 implementation date and, for example, on the subject of  
2 public consultation, some of the public consultation  
3 activities that have already been carried out for the  
4 timber management plan that is under preparation would  
5 be discussed here as an element of the public  
6 consultation that has already been done.

7 THE CHAIRMAN: Would this be the area,  
8 Mr. Bisschop, that you might entertain the idea of  
9 going for an exemption for the contingency plan?

10 MR. BISSCHOP: First, it's difficult for  
11 me to respond immediately. First of all, I have to  
12 make the assumption that we have our approval under the  
13 Class EA but, along with that, we have to have a plan  
14 in place on time to have that approval applicable.  
15 It's a possibility. I am not -- I would hate to see us  
16 in the situation of having to seek those kinds of  
17 exemptions and I would suggest that the provisions for  
18 the contingency plan are the alternative to that.

19 The proposal is put to the Environmental  
20 Assessment Branch of the Ministry of the Environment.  
21 We have indicated in the documentation that after they  
22 have reviewed and endorsed that proposal we will  
23 proceed with the preparation of the contingency plan.

24 I suggest the wording of endorsement  
25 perhaps is strong. We are not suggesting that there is

1 an approval role, rather I think it's probably a  
2 measure of consultation to ensure the Environmental  
3 Assessment Branch that we will conduct adequate  
4 planning before we proceed with operations.

5 We would then proceed with the  
6 preparation of that plan and, just as in the case of  
7 the amendment provisions, the planning requirements  
8 would depend on the nature of the proposed operations  
9 but would involve the full timber management planning  
10 requirements.

11 The contingency plan would receive  
12 approval from our regional director, the region gets  
13 involved, it's not something that is just left to the  
14 district, and copies of the approved contingency plan  
15 would be provided to the appropriate regional office  
16 and EA Branch Office of the Ministry of the Environment  
17 for the public record.

18 I have one final matter that deals with  
19 terms and conditions related to this subject that I  
20 would just like to wrap up the discussion of Document 4  
21 with.

22 In Exhibit 700 starting on page 12 there  
23 are four conditions that I would like to refer to.  
24 Again, I don't intend to read them into the record, but  
25 they are conditions 26, and 27, 28 and 29 including the



1 preamble to 27, 28 and 29.

2 Amendments, Renewals and Contingency Plans

3 For the purposes of this part, the term "scheduled  
4 renewal" refers to the preparation of a new timber  
5 management plan at the end of the 5-year term of  
6 the current timber management plan. The term  
7 "unscheduled renewal" refers to the preparation of  
8 a new timber management plan before the expiry of  
9 the 5-year term of the current timber management  
10 plan, due to a major change in circumstances in the  
management unit which makes the current plan  
obsolete. The term "amendment" refers to a change  
to an approved timber management plan during its  
5-year term; and the term "contingency plan" refers  
to an interim plan which is required if a timber  
management plan cannot be prepared and approved by  
the required due date.

11 Terms and conditions of this approval which apply  
12 to the production of timber management plans shall  
13 also apply, to the extent that they are relevant,  
14 to the production of renewals of timber management  
plans, amendments to approved timber management  
plans, and contingency plans.

15 Particular terms and conditions with respect to  
16 renewals, amendments and contingency plans are as  
follows:

17 27. MNR shall ensure that all renewals of timber  
18 management plans shall be undertaken in accordance  
with MNR's timber management planning process.  
Particulars of this condition are:

19 (a) A scheduled renewal of a timber management  
20 plan shall be undertaken for each timber management  
unit every five years.

21 (b) An unscheduled renewal of a timber management  
22 plan shall be undertaken if the current plan is  
23 rendered obsolete at any time during its 5-year  
term.

24 28. MNR shall ensure that all amendments to approved  
25 timber management plans shall be undertaken in  
accordance with MNR's timber management planning  
process. The District Manager shall consider the

1 circumstances of any proposal for an amendment to  
2 an approved timber management plan to determine  
3 whether the proposed amendment should proceed, and  
4 if so, whether the proposed amendment should be  
5 treated as an administrative, minor or major  
6 amendment. In the determination of the appropriate  
category of amendment, the District Manager shall  
assess the extent of public consultation and formal  
MNR review and approval which is required, in light  
of the particular circumstances of the proposal.

29. Where, for any reason, the schedule for the  
preparation and approval of a timber management  
plan cannot be met, a contingency plan shall be  
prepared and approved before operations may  
proceed. Particulars of this condition are:

- (a) MNR will submit a proposal to the Director of  
the Environmental Assessment Branch, Ministry  
of the Environment, which will set out the  
need for a contingency plan, the proposed  
contents and term of the contingency plan, and  
a schedule for its production, review and  
approval.
- (b) The schedule for the preparation of the  
contingency plan will include provisions for  
public consultation.
- (c) Production, review and approval of the  
contingency plan will proceed upon endorsement  
of the proposal by the Director of the  
Environmental Assessment Branch, Ministry of  
the Environment.

MR. BISSCHOP: Very briefly, term and  
condition No. 26 deals with provision of bump-up  
opportunities for major amendments; condition 27 deals  
with the subject of scheduled and unscheduled renewals;  
condition No. 28 deals with the amendment provisions  
for administrative, minor and major amendments; and  
condition No. 29 addresses the subject of contingency

1 plans.

2 MR. FREIDIN: That, Mr. Chairman, is the  
3 end of the evidence on Document 4.

4 MRS. KOVEN: I have one question, Mr.  
5 Freidin.

6 Did you say a few days ago that the  
7 contingency plan areas automatically rolled over into  
8 the areas -- the harvest areas for allocation in the  
9 next five-year plan?

10 MR. BISSCHOP: I think you may be  
11 confusing terms again. You said contingency plan area.  
12 I think you mean contingency area.

13 MRS. KOVEN: Yes.

14 MR. BISSCHOP: Am I correct?

15 MRS. KOVEN: Yes.

16 MR. BISSCHOP: Assuming -- I believe it  
17 was Mr. Kennedy who spoke to this and perhaps rather  
18 than -- I can give you the answer that I think he gave,  
19 it's perhaps best he speak to that.

20 MR. KENNEDY: That is a possibility, that  
21 a contingency area would be rolled over into the next  
22 plan. It could be seen in the next plan in two  
23 fashions, I would suggest; it could be proposed again  
24 as a contingency area that would serve for another  
25 five-year term, or it may indeed be incorporated into a

1       portion of the areas that are selected for operations  
2       for the five-year term and another contingency area be  
3       identified to serve in that term.

4                   In either way, it would go through the  
5       full planning requirements as we have described to  
6       date.

7                   MRS. KOVEN: Thank you.

8                   MR. FREIDIN: Mr. Chairman, after we come  
9       back from Dryden, that next week, what day to we start?  
10      We start on the Tuesday?

11                  THE CHAIRMAN: I think we are starting on  
12      the Tuesday and I believe it's the 2nd -- we are coming  
13      in that Monday night; are we not?

14                  MR. CASSIDY: Tuesday the 3rd of October,  
15      Mr. Chairman.

16                  THE CHAIRMAN: Right. And we are coming  
17      in on the 2nd, the Monday night.

18                  MR. FREIDIN: Okay. It's a full week  
19      then the week after Dryden?

20                  THE CHAIRMAN: That's right. It's the  
21      week after that that we are not coming in until the  
22      Tuesday or starting Tuesday afternoon, coming in  
23      Tuesday morning.

24                  MR. FREIDIN: Thank you. The only reason  
25      I asked, I just wanted to indicate that I am so



1       confident that we will finish this panel in terms of  
2       direct evidence during the morning, so that if people  
3       are going to --

4               THE CHAIRMAN:   On October 2nd?

5               MR. FREIDIN:   On October the 2nd.   It  
6       should take us another half a day at most to deal with  
7       Documents 5, 6 and 7 and so I just wanted --

8               THE CHAIRMAN:   And that is the week that  
9       Mr. Cosman is away and that is the week that I believe  
10      Ms. Swenarchuk is going to take his place; is that --

11              MR. FREIDIN:   I just wanted to just  
12      indicate --

13              MR. CASSIDY:   That's correct.

14              THE CHAIRMAN:   Is that the arrangement?

15              MR. CASSIDY:   Yes.

16              MR. FREIDIN:   I just wanted to indicate  
17      that whoever is going to cross-examine first should be  
18      ready to go on that day and not the next day.

19              THE CHAIRMAN:   Mr. Lindgren, will you  
20      advise Ms. Swenarchuk to be ready to go that day?

21              MR. LINDGREN:   Yes, I will advise her.

22              THE CHAIRMAN:   Thank you.

23              Very well, ladies and gentlemen, and we  
24      will adjourn for the evidence until October 2nd --  
25      sorry.

1 MR. CASSIDY: 3rd.

2 THE CHAIRMAN: 3rd, and next week we will  
3 be in Dryden September 26th, and 27th.

4 Thank you.

5 ---Whereupon the hearing adjourned at 5:10 p.m., to be  
6 reconvened on Tuesday, September 26th, 1989 in  
Dryden, Ontario, commencing at 2:00 p.m.

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